

UNITED STATES DEPARTMENT OF AGRICULTURE

+ + + + +

NATIONAL ORGANIC STANDARDS BOARD

+ + + + +

MEETING

+ + + + +

TUESDAY,
OCTOBER 17, 2006

The meeting was held in Salons 1 and 2 of
the Radisson Hotel Reagan National Airport,
2020 Jefferson Davis Highway, Arlington,
Virginia, at 9:00 a.m.,
Kevin R. O'Rell, Chair, presiding.

BOARD MEMBERS PRESENT:

KEVIN R. O'RELL	Chair
ANDREA CAROE	Vice Chair
BEA E. JAMES	Secretary
GERALD A. DAVIS	Member
RIGOBERTO I. DELGADO	Member
KEVIN ENGELBERT	Member
DANIEL G. GIACOMINI	Member
JENNIFER M. HALL	Member
HUBERT J. KARREMAN	Member
MICHAEL P. LACY	Member
JEFFREY W. MOYER	Member
NANCY M. OSTIGUY	Member
JOSEPH SMILLIE	Member
JULIE S. WEISMAN	Member

NOP STAFF PRESENT:

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

KATHERINE BENHAM	Board Specialist
MARK BRADLEY	Associate Deputy Administrator
VALERIE FRANCES	NOSB Executive Director
JONATHAN MELVIN	Accreditation Manager
ARTHUR NEAL	Acting Associate Deputy Administrator, Transportation
BOB POOLER	Agriculture Marketing Specialist
BARBARA ROBINSON	Deputy Administrator
TONI STROTHER	Management Analyst
FRANCINE TORRES	Secretary
DEMARIS A. WILSON	Assistant Deputy Administrator

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

C O N T E N T S

	<u>PAGE</u>
Introduction (Chair O'Rell).....	5
Approval of Agenda	
Announcements	
Introductions	
Secretary's Report (Bea James).....	19
Public Training on Searching NOSB Meeting Transcripts (Valerie Frances).....	24
National Organic Program Report (Barbara Robinson).....	33
(Mark Bradley).....	46
Pet Food Task Force Report Update and Discussion (Emily Brown Rosen).....	90
Public Comment on NOSB Action and Discussion Items.....	113
Public Comment	
Brian Baker.....	115
Jim Riddle.....	127
Grace Marroquin.....	143
Richard Siegel.....	151
Diane Goodman.....	167
Sean Taylor.....	183
Gwendolyn Wyard.....	201
Lynn Coody.....	216
Katherine DiMatteo.....	248
George Kuepper.....	256
Bill Wolf.....	261
Rachel Snoddy.....	271
Tina Ellor.....	276
Emily Brown Rosen.....	286
Will Daniels.....	303
Suren Misrha.....	305
Anthony Pavel.....	322

C O N T E N T S (continued)

	<u>PAGE</u>
Public Comment (Continued)	

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Jim Pierce	331
Leslie Zuck.....	343
Judy Ellis.....	359
Kim Dietz.....	363
Brian Rikita.....	372
Patricia Kane.....	378
Closing.....	390

P-R-O-C-E-E-D-I-N-G-S

9:07 a.m.

CHAIR O'RELL: Okay. I'd like to officially call to order the October 2006 NOSB meeting. We are -- oh, we have another Board member. Good. One more will be coming. Oh, Nancy.

So the only board member who is not here is Rigo, he is going to arrive a little later today. He's traveling today out of Texas. Hopefully, the weather will allow him to get up here but I think he's planning on arriving about 2:00.

I'd like to welcome everybody in the audience to the meeting. I'd like to welcome the NOP and fellow board members.

Just a reminder, and that was just my cell phone went off just so it could prompt me to remind everybody, I had that set, for everybody to turn off your cell phones or please put them to vibrate because now the rule is in effect. If your cell phone does go off, you will by the board a drink. And since this is my last meeting, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

will take people up on drink offers. I will make sure that's enforced.

Approval of Agenda

The first thing we'd like to do is to approve the agenda. Has everybody had a chance to look at the agenda? Is there any discussion or a request for anything to be changed?

(No response.)

CHAIR O'RELL: Hearing none, I would accept a motion to approve the October 2006 NOSB agenda.

MEMBER CAROE: So moved.

MEMBER KARREMAN: Second.

CHAIR O'RELL: It's been moved and seconded. Any discussion?

(No response.)

CHAIR O'RELL: All those in favor?

(Chorus of ayes.)

CHAIR O'RELL: Opposed? Same sign.

(No response.)

CHAIR O'RELL: The motion carries. The agenda is approved.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

From the agenda, we have two public sign up sessions that are available for Tuesday afternoon and one for tomorrow afternoon. And I believe the sign-up books are just right outside the hall and they will be left there during the morning for anybody to sign up for this afternoon's session.

As has been our practice in the past, we are having these public sign-up sessions so that we can hear from the public and get comments about some of the discussion and recommendations that we have posted. This is a very important process, part of the process, where we come out with our recommendations and we really, really encourage and want to hear from the public. Because I know there are a couple of recommendations that I'm sure we will hear from the public. And that's part of the process. It's a good thing. As we deliberate on that discussion, we can ask questions of public commenters. But we also take in that information and we digest that before we come out with final

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

recommendations and it may or may not influence us in the direction that we go for certain recommendations and voting. So the public process here is very important for the comment section.

I'd like to begin by just going -
- well, first, I'd like to ask are there any other, any board announcements that people might have? Any announcements from the board?

(No response.)

CHAIR O'RELL: Hearing none, I'd like to now have introductions from board members. Start with Mike, if you can tell a little bit about where you're from, what segment you represent and maybe just a little bit about why you're here.

MEMBER LACY: Okay. Mike Lacy. I am the science representative -- I'm sorry. Thank you.

Mike Lacy from Athens, Georgia. I'm the science representative on the board and this is my fifth year on the board. I serve as the chair of the Livestock Committee. And I have enjoyed very much my

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

five years and looking forward to this meeting.

MEMBER KARREMAN: Hubert Karreman. I am one of the environmentalist seats. I'm from Lancaster County, Bart Township, which was in the news lately. I'm a dairy practitioner. I work with about 80 certified organic dairy farms locally. And I'm in my, what is it, second year now.

MEMBER DAVIS: Gerald Davis, grower representative on the board. This is my second year. I'm the Crops Committee chair and I work out of Arvin, California for a large organic vegetable farm, actually the largest single grower in the country. And I'm looking forward to this meeting, too. Thanks.

MEMBER SMILLIE: My name is Joe Smillie, I live in Burlington, Vermont and I'm the certifier representative on the board. It's my first year. I participate in the Certification and Accreditation Committee and the Handling Committee and am a longtime organic proponent.

MEMBER JAMES: Bea James. I am

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

currently the secretary NOSB. I hold the retailer seat on the board and I am Vice Chair of the Policy Committee and I also serve on the Accreditation and Certification Committee and I'm excited to be here.

CHAIR O'RELL: Kevin O'Rell from Boulder, Colorado and I represent the handlers on the board. This is my final meeting as a NOSB member. I'm looking forward to getting to the other side, like Jim Riddle, where I can sit and look, and stare at the board, and make faces when we say the wrong thing.

I've been in the organic industry a little over ten years in product development, operations, and regulatory affairs.

MEMBER CAROE: I'm Andrea Caroe. I hold an environmental seat. I am presently the Vice Chair of the board. I chair the CAC and I sit on handling, policy, Aquaculture Task Force. I think that's it.

CHAIR O'RELL: Do you want more to do?

MEMBER CAROE: No. In my private

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

life, I work for a sustainable certification firm as the director of operations.

MEMBER WEISMAN: I'm Julie Weisman. I hold one of the handler positions on the board. This is my second year. I'm chairman of the Handling Committee and in addition to that, I am on the Certification Accreditation, which -- what am I missing? And Compliance Committee and also on materials. I'm from Tenafly, New Jersey, which is North Jersey. And I've been an organic consumer for my whole adult life but I've been involved in the industry for the last ten years. My company makes organic flavor ingredients, among other things. And yesterday was my daughter's seventh birthday.

MEMBER OSTIGUY: Nancy Ostiguy. I'm an environmental rep. I've been, this is my fifth year, so last meeting. I've been on the Livestock Committee, the Materials Committee and Crops Committee.

MEMBER HALL: I'm Jennifer Hall. It's my first years as a consumer representative. I reside in Spokane,

Washington and I work for Chefs Collaborative, which is a nationwide, nonprofit, dedicated to educating chefs in the culinary community about sustainable foods. I've been a longtime organic consumer myself and so I'm very interested in the integrity of what we're doing. I serve on the Livestock, and the Accreditation, and Compliance Committees.

MEMBER MOYER: I'm Jeff Moyer. First year on the board representing the growers' side of things. I'm on the Crops Committee, Vice Chairman there. I'm on the Livestock Committee and Farm Manager for the Rodale Institute. I've been there for 30 years. And I've been involved with organic a long time.

MEMBER ENGELBERT: I'm Kevin Engelbert. I'm a dairy farmer from Nickols, New York. I represent one of the grower seats. I'd like to publicly thank my sons again for taking over the slack that's created by my being on the board. Their position has changed somewhat. They think it should be a paid position because I've

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

put a lot of time into this and I want to thank them again for take up the slack.

MEMBER GIACOMINI: My name is Dan Giacomini. I'm from California. I have one of the consumer seats on the board. I serve on -- I'm chair of the Materials Committee. I also serve on Livestock and I've helped out quite a bit this last six months on Aquaculture.

CHAIR O'RELL: Thank you, Dan. I'd like to have NOP introductions. If we could go around the room starting with Mark. I'm sorry, Mark, did I catch -- just to introduce at the table for the NOP for the audience.

MR. BRADLEY: I was going to do that in my remarks, but we can do that now.

I'm Mark Bradley. I'm the Associate Deputy Administrator and this is my boss, Barbara Robinson, she's the Deputy Administrator for transportation marketing programs for AMS. Demaris Wilson, the Assistant Associate, or Assistant Deputy Administrator, the title gets me every time, Assistant Deputy Administrator. Katherine

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Benham, who works for the National Organic Program staff and she is tasked with managing all of the board activities as far as, she's a board specialist. But she does a lot more with the NOP in terms of handling our budget and she is the administrator for the list of accredited certified operations. So she has a huge job.

Going down the line, Toni Struther. Say hi to everybody, Toni.

MS. STRUTHER: Hi everybody.

MR. BRADLEY: Most of you that are regulars at this meeting know Toni. She does a lot of work for the program and she is in charge with a lot of the communications that happen with the NOP right now. She also is one of our ramrods for the regulatory process. She knows the process better than really anyone on the NOP staff, so I depend on her to keep the process flowing. And we'll talk a little bit more about what she does in a little bit.

Next to her is Jonathan Melvin.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

JD is our accreditation manager. JD is very busy right now because we have a whole flood of new applications coming for the renewal.

Next to him is Bob Pooler, across the isle. Bob is our materials expert, has been on the staff for seven, eight years now. Seven years.

And of course you know our new, well not new anymore, I guess she's been around for a while, NOSB Executive Director, Valerie Frances.

And who else? Francine Torres. Francine's out at the front desk. Francine is the secretary for the program and she is really the one that keeps my life straight and keeps things moving in the programs. She's responsible for the quality control of the documents that go out the door and schedules everything, does travel, really does a great job for the program.

Not present here today, Mary Lu Lusby. She was going to come. She's been out of the office for about a week, so she's trying to catch up on all the applications for accreditation that have come in in her

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

absence.

But I think that's pretty much it for the NOP staff.

CHAIR O'RELL: Thank you, Mark.

I just, I want to caution board members that all of these microphones up here are live all the time. Normally we have buttons where we can control them. So, conversations that you might have are going to be transcribed into the public record. So, just be aware of that.

Kevin mentioned the fact that there's a lot of time put in by board members here. There certainly is. I asked Valerie just to kind of give me a count since the last meeting on how many committee calls we've had. There's been a total of 62 committee calls since the last meeting. In the month of August alone, there were 23 calls and totaling 33 hours. So, and that's for one month. And that might have been the high point but July and September were also very active in preparation for this meeting. So, --

MEMBER CAROE: Does that include

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Aquatic Task Force?

CHAIR O'RELL: The question, does that include Aquatic Task Force?

MS. FRANCES: Yes.

CHAIR O'RELL: Yes. So, everybody's included. You want her to run up the numbers?

MEMBER CAROE: No, I just assumed it was a lot more than that.

CHAIR O'RELL: I know. It does seem like a lot more than that. But that is the number. It doesn't count email and time. That's just phone time and the preparation time.

So there is just an incredible amount of work that this board undertakes and certainly, between now and our next meeting, we know we have another mountain to climb because materials are mounting and we absolutely need to get to those and that's going to be a priority we talk about at this meeting.

I'd like to now turn over to Bea and have her give us the Secretary's Report.

Secretary's Report

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER JAMES: Okay. So, I have my script here. My bachelor's degree is in acting and so I just can't do anything without a script.

I'd like to give an update on Executive Committee minutes. This is something that often times we do vote on at the board meetings. Executive Committee conference call minutes will be approved by the Executive Committee as part of the conference call agenda. The Executive Committee will discuss the role of EC minutes at the board at our next call. And, at this time, Mr. Chair, we do not have Executive Committee minutes to approve. This will become a process of our calls internally within the board. And Executive Committee minutes are posted, if anybody wants that information, it's available on the website.

CHAIR O'RELL: But just to be clear, this has been part of our process and it's something that has been continuing.

MEMBER JAMES: Right. And next, I'd like to talk about the policy on meeting

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

minutes and transcripts.

Minutes, in the past, have been extrapolated from transcripts. That's something that the NOP has provided for us. Due to labor reasons, we will no longer be receiving minutes extrapolated from the transcripts. However, transcripts are available for viewing on the website. This changes currently and we're going to experiment with the role of the secretary, the NOSB secretary and we'll be taking very brief minutes based on the agenda items during these meetings. And that will be our internal information on the minutes and we'll see how this process goes and we'll vote on minutes that the Secretary takes on the NOSB board meetings. But we will no longer be receiving minutes from the NOP transcribed out of the transcriptions.

And if anybody has any questions or discussion on that, we can open that.

(No response.)

MEMBER JAMES: Okay. So, with that, we will also be voting on transcripts at the board meeting. And I would like to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

move to accept the transcripts that have been received by the NOP from the August 2005, November 2005, and April 2006 NOSB board meetings and that these transcripts now serve as official record from those meetings, and that we have received those from the NOP.

CHAIR O'RELL: And that is a motion?

MEMBER JAMES: Motion.

CHAIR O'RELL: Is there a second?

MEMBER KARREMAN: Second.

CHAIR O'RELL: Hugh seconds. Any discussion?

MEMBER CAROE: I just want to clarify that we are voting to accept the minutes, we are not voting to approve -- I mean the --

MEMBER JAMES: The transcripts.

MEMBER CAROE: -- transcripts. We're voting to accept them and not approve them because they're not up for discussion for change. They are just being accepted into the record. They are what they are. There is no debate.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER JAMES: Okay. So, do we
want to --

CHAIR O'RELL: Any more
discussion?

(No response.)

CHAIR O'RELL: It's been moved
and seconded. All those in favor?

(Chorus of ayes.)

CHAIR O'RELL: Opposed?

(No response.)

CHAIR O'RELL: The motion
carries.

Is that, that is the Secretary's
Report?

MEMBER JAMES: And that is the
Secretary's Report.

CHAIR O'RELL: Okay. We're going
to call on Valerie from the Program to go
through a little public training session on
the transcripts, so people have a better
understanding, if you haven't been there.
There's a lot of document there, obviously,
from two and a half to three days of
meetings. So, Valerie's going to go through
some tips on searching through the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

transcripts to try to find information that might be relevant to what your concerns are.

Public Training on Searching NOSB
Meeting Transcripts

MS. FRANCES: And this is just for the record. Probably many of you known how to search PDF files but I get a lot of calls on the phone and requests for, oh, I didn't know you could search a PDF file. And, of course, you can only search those files that are converted from an original word document. If they've been scanned in, you can't search those because they're kind of more in as a photograph. But these are, these transcripts are converted from a word document and so they are searchable.

And so all you do, you look at the top of your tool bar in any Adobe Acrobat PDF. You'll see a little pair of binoculars and you click on that and that's how you search in a document. And it's actually a very handy tool, if you've never done this.

And I'm just curious. In the audience, how many people have searched a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

PDF file and found what they needed? Have folks tried to search the transcripts and found what they needed to find?

It is a lovely tool. And so, just for the record, for people out there that may want to look at this, you just click on the search tool and then you decide what you want to search for. And I won't put the word pasture in because this is from the last meeting and pasture comes up a lot. So, but I can put in some other word or a name, you can also identify a person.

And actually, in my searching, because I had just gotten off the phone with Brian Baker, I searched for Brian and I found him in there, a number of times. I can do that. You see, Brian comes up a number of times. And you can click on each place and you can find, you know, people who have actually spoken during the event.

You can refer to the agenda and identify approximately when the topic that were interested in is being covered and then, you know, basically walk through each page by page, looking for the comments. It

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

refers you to the page number that you can find the information you want. You can then go and print that page of the document and then you can refer to it more easily that way, if you don't like looking at the screen.

So, that is intended for a little guidance on how to do this. And question?

MR. RIDDLE: Yes, without official minutes now, the really critical thing is finding the motions and the votes.

MS. FRANCES: We don't have a microphone --

CHAIR O'RELL: If you have a question, Jim --

MR. RIDDLE: Could you just summarize? I mean --

MS. FRANCES: Okay. Repeat what you were just saying and I'll try and summarize.

MR. RIDDLE: Yes. How to find motions and votes, because that's really the critical information.

MS. FRANCES: Well, I guess you would --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: Repeat the question.

MS. FRANCES: Jim is wanting to know how to find motions and votes, as that is critical information.

Obviously, you would look on the agenda to see the day that they were voting. And we've been trying to separate out committee presentations from actual voting time. And so you would know from the agenda what day things were voted on. So that would be certainly one way to approach it. And you would understand when the committee met during that time frame. On the transcripts, you could do it certainly that way.

I don't know about being able to pull up and easily, I guess you could plug in motion. We could look at the second day's transcripts, because I pulled up the first day's. We can pull and maybe trigger motion and see how many motions come up, because that should have come up in the transcripts, I would say. Why don't I do that?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: Valerie, if we could have Bea respond to that? Because we are trying to address that issue, Jim, so --

MS. FRANCES: Okay. And I'll look at the document.

MEMBER JAMES: One of the things that the Secretary will try to do that we're trying now is that as we take minutes based off the agenda, we'll also be recording questions that people ask in these minutes that the Secretary records. We'll also be, we'll also take information on the votes and who motioned and who seconded and how the votes came about within the minutes that the secretary takes.

I also wanted to mention that at our next Executive Committee conference call, we are going to be talking about making this more official policy, if it works, and looking at possibly adding this description into the board policy manual for the Secretary's role so that there's not confusion around whether or not we talk about Executive Committee minutes at a meeting. We do, we don't. Some meetings

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

there has been discussion on it, some meetings there haven't been. And we want to make sure that we go forward with a consistent policy around that. And I also, part of the reason Valerie is showing how to use this search mechanism is because we're not having the minutes summarized anymore. So this will help make that easier and we will be able to look at brief summary minutes that the Secretary puts together as well.

CHAIR O'RELL: Andrea, did you have a comment?

MEMBER CAROE: Yes. Also with regards to the motions and votes, those are all going to be, as has been done in the past, put onto the final recommendations. So you can always reference the final recommendation that should post shortly after the meeting with who motioned, who seconded, and what the votes were.

MS. FRANCES: Just in a review, I pulled up Thursday's transcript from the last meeting and that was during the day that all the votes were made. And you can

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

see motion, when I just plugged in the word "motion," it comes up quite often. I pulled up one. It was a motion and it shows who voted and states, you know, how they voted. And also, when you use a word like "motion," I noticed that "promotion" comes up. So, obviously, words that are components of other words are going to come up as well but not with any great frequency, I would say. Motion is what has come up, it looks like at least 20, 25, times there, or no, 50 times. So you can spend your day looking through.

But obviously, I would think recommendations themselves, the final recommendations are going to be the best place on the website to look for those votes.

Is this helpful? It's okay?
We're good?

CHAIR O'RELL: And I think, if I can just add on to what Valerie and Bea have indicated is that we are trying to put together, at this meeting, a format. Bea is trying, as secretary, to have highlighted minutes in accordance with the agenda items,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

so that there will be reference notes with the agenda items. And if it is a vote, at that time, we will put down the motion, who second, who brought the motion to the floor, who seconded that motion, and the vote, the recorded vote. So that will be in the minutes. In going forward, we're trying to get better with that process.

So I think Valerie's demonstration here was just to give those people an idea that if they want to get to the meat of it, the meat of it is in the transcripts and you can, it is searchable, you can go back there and try to find out and dig up specifics that you might be concerned about in terms of the discussion. But the minutes that Bea is working on now as we speak, and will throughout the meeting, will reflect highlighted minutes in coordination with the agenda, but then will be published and then approved at our next meeting.

Are there any questions from board members?

(No response.)

CHAIR O'RELL: We're a little ahead of schedule, but Mark, I think we'd like to go into the National Organic Program update and --

MR. BRADLEY: Barbara's going to be first.

CHAIR O'RELL: Barbara?

National Organic Program Update

MS. ROBINSON: Good morning. Kevin, Andrea, everybody. Is this on? Can you hear me? Okay. Good.

Before I hand over the NOP Update to Mark, I thought I should address the board and the audience, in particular the audience, just to tell you a few things, just to give you a little update since we last met in April in Pennsylvania.

At that time, we had a dairy symposium and we made a commitment to the organic community that we would, we had just published an advance notice of a proposal we were making on pasture, dairy pasture. And we made a commitment that we would have a regulation out on access to pasture, an enhanced role for pasture for ruminant

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

animals. And here it is October 16th, October 17th, and as you can all tell, we don't have a regulation published, a proposed rule published. And so I thought it only fair that we give you an explanation why that is the case.

Now, Mark has introduced to you the staff and, as you can tell, I come to you, you know, just about every year. The staff doesn't seem to change size. So here we are again.

We did get 80,000 comments on the ANPR. Now that, you know, sounds like a lot and we're used to getting that number of comments when we put anything out for comment. But a lot of them were very similar. That was okay. And we were happy to get that number of comments and we were in the throws of drafting a pasture, a proposed rule on pasture, and we were going along pretty well and then some things happened that.

You know, my analogy for this program is that we get on a train and we sort of chug down the road and down the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

tracks and we're doing pretty well. We were very dedicated in this commitment. I can't stress how committed we are to this pasture regulation. However, some really serious things happened.

You remember last year that we were sued by Mr. Harvey. Well, he decided to sue us again. And this lawsuit is every bit as serious as the lawsuit of last year, at least the ramifications of this lawsuit would be just as serious as the one of last year.

We also received some pretty significant FOIAs, Freedom of Information Act requests, totaling over 400,000 records that were requested of us. And these were significant enough that though we tried to get the parties to narrow their searches. We said we would be more than cooperative in giving them exactly what they wanted. What the requests were for us to simply open the drawers, open the files, and provide access to all of the records that all of our agents also collect.

Now, we ask that our agents hold

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

their records in confidentiality because those are the records of your businesses and that's what it says in the regulations. But we are have some serious discussions within the Agency with our attorneys as to whether or not the Agency is going to be held by that same standard of confidentiality and we are very troubled by that.

And people in the media and people in other groups disagree and they believe that they should just be able to come in at their leisure or their convenience and disrupt business, in my opinion, and sit down and just look through all of the records.

Now, I also am bound to uphold the privacy laws of the United States and so, I've had many long conversations on the telephone with people from the press and with other groups. And then I'm threatened with lawsuits on top of that, if I don't timely answer those requests. And so when you have lawsuits and then you have FOIA requests, these things are fires that have to be put out.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

In other words, no matter how much I want to write a pasture regulation, those issues, when they happen, have time constraints on them. Twenty days, you know, 15 days to prepare a brief, to get it back to a court, something like that. So everyone has to get off the train that was going down the track while we were working on a pasture reg and we just, it's all hands on deck and we have to stop what we were doing and then start working on, you know, dumping out all of the emails or trying to decide what is confidentiality and whose records are privileged, whose records can be held as confidential.

So, and then we get complaints that are serious complaints that demand full investigations immediately and those sorts of things. So, it's with my personal and my professional and my Agency and my Program's apologies that I don't have a pasture regulation that's proposed and put in the Federal Register right now. It is in draft form. I'm not telling you that there's been nothing on it. A pasture regulation is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

being drafted. But then, in addition to it, because it is a major change in the regulations, it requires a lot of clearance. There are agencies that want to look at it. The Office of Management and Budget wants to look at it. The General Counsel's Office wants to look at it. There are several other people that will want to review this. And so, and then there's all sorts of ancillary documents, we have to do economic impact analysis to go along with this.

So, every time we get these things that come into the agency and say, well, now we want to know all about this, you know, it changes our priorities.

And I'm terribly sorry to say this to you because I thought that this industry really wanted the pasture regulation as its number one priority. That's what I heard. That's what I heard in April. That's what I've been hearing for the last year, since we met in November, that that was the number one priority. But it's not.

And quite frankly, you know, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

more we continue this mistrust and the more we continue this infighting, and the more we continue this, you know, just frankly, lack of trust, the less progress we make because you're looking at the staff. There's only this number of people. I can't make them work 24/7.

I now work 95 percent of my time on the National Organic Program. I no longer work on transportation and I no longer work on marketing. I write the draft proposed rule for pasture. I'm trying to figure out an economic impact analysis. And I'm sorry if I sound like I'm losing patience, but every day someone calls me up and says where's the pasture reg? Well, I'm still trying to figure out how to, you know, answer FOIA requests for 400,000 pieces of paper that, you know, I don't think I should be answering.

At any rate, that's why we don't have it but I am still trying very hard. I want to get it out this year. I'm committed to it, fully committed to it and that is what I'm working on, in my spare time. And

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

that's what I want to do. I heard you in April. That's what I believe in and that's what I think we should be doing. That's what I think our number one priority should be.

And I think the FOIAs and the rest of it is not your priority and I don't think it's my priority. It's just something that derails me and that's what I have to go and do.

Now, I mentioned the Harvey lawsuit. We do have another lawsuit. We have answered all the briefs and the motions and it is in District Court. I checked last night with the attorneys to see if there had been any response from the judge and there had not. I will check again today but, so far, I have heard nothing back from District Court. So that means that we are still in litigation.

So, that means two things. I can't discuss the case with you. And it also means that, Kevin, as you and I chatted last night, I have asked the board -- you wanted to discuss a definition of synthetic

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

versus non-synthetic. And I have asked the board to postpone that discussion, at this time, because the court case involves, it will bear on that definition of synthetic.

And it is not that we are in disagreement with you or that we are rejecting it or any of that. But we think it is prudent, at this time, to simply postpone that until we get the court litigation resolved and we get further information from the court, so that we all have full information and then we can decide. You know, would that change your recommendation at all, would that change our feedback to you? And then go from there. And we can do that. In between meetings we can still work on that.

And hopefully, we'll be hearing something from the court soon. Like I said, I pressed the attorneys yesterday and I'll press them again today.

And the last thing, before I hand over to Mark is the, we did get a very good set of NOSB nominees. We got, I think, 40 some applications, 40 applications. That

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

package is making its way across the street to the Secretary. I am very very pleased at the caliber of the qualifications of the nominees that we got this year. So whomever the Secretary selects is going to be a good addition. I'm not sure that they can replace Kevin and Nancy and Mike, as well as, you know, the three of you have performed over the last several years, but there's just a good group of people out there. I think, you know, as this board matures and this industry matures, people are getting more interested in participating. So that's good. But I'm just really pleased with the candidates that applied for the board.

So, again, my apologies that we don't have a pasture reg to propose to you but that's still my number one priority.

Now, I'll let Mark get going on the --

CHAIR O'RELL: Barbara, just a question on timing in terms of the nominees. The Secretary will be making choices early January would be the expectation?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MS. ROBINSON: Well, I hope he makes them before then, Kevin.

CHAIR O'RELL: Okay.

MS. ROBINSON: He certainly does not have to announce them until January, but he normally announces them in December or something. If I recall, I think they were announced last year in December.

CHAIR O'RELL: They were December last year.

MS. ROBINSON: So I would expect that he will do that. Bear in mind, it's an election year. That tends to throw schedules off. It tends to just make people, everything piles in. I also don't know, there are many other boards in the department with nominations that come due. And I don't know what their schedules are. Sometimes, it just depends on who stacks up and what's going on. So, but I wouldn't expect that there would be any real, you know, problem in getting them announced at the normal time.

CHAIR O'RELL: Okay.

MS. ROBINSON: Any other

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

questions?

CHAIR O'RELL: Thank you,
Barbara. Any other questions?

(No response.)

MS. ROBINSON: Thank you.

CHAIR O'RELL: Thank you,
Barbara.

MR. BRADLEY: Let me deal with a
little technology here for a second.

Kevin, thank you very much. I
just want to provide just a brief rundown of
what the Program has been up to last year,
what we're going to be doing this year. But
first I'd like to welcome everybody. It's
always nice to be able to get together like
this, with the board especially, and with
the regular list of suspects that come to
these meetings, and also some new folks that
I know have not been here before. Welcome.
We appreciate your taking time out of your
busy lives and businesses and coming here to
share your thoughts and to participate in
this program.

The NOP has been busy this past
year, as Barbara plainly said, we have a lot

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

of things on our plate. There's a lot of things that we are intending to do that we have not got done yet, but we have them on our work plan.

Just for a few highlights of what's been going on for the past year with NOP, for some personnel notes, as most of you know, Keith Jones, who is the Director of Program Development for the NOP, has been on a detail, on a congressional fellowship. That is going to last through January. And we're looking forward to having Keith back and available for service. He's a big producer for the Program and an important part of our policy development, has an institutional knowledge that is critical for NOP. And he has been missed and we're looking forward to having him back.

Arthur Neal, right now, Arthur is Acting Associate Deputy Administrator of Transportation Programs. His skills were needed with other parts of the Program. So he's on loan for about 120 days, I think, to go down until they can hire a permanent position down there. So, as thin as we are,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

we're a little bit thinner than usual, but we'll work with that.

Valerie Frances, as you know, is the new NOSB Executive Director, settling into her duties very well. We're very pleased with the way that she's settled into the program and we will continue to fine tune her responsibilities. We will be very interested in how the board has viewed her performance. Not so much her performance, but how her duties have met your expectations over the past year. We would entertain comments on that, in writing offline, anything you're willing to offer up in terms of how we can meet your needs with her position because here position was established to serve the board. So we want to make that that's being done. But so far, were very pleased. She's been a tremendous help.

And from a technical standpoint, it's always good to have someone with her level of experience and field expertise to come into Washington, to be willing to drive into D.C. instead of living out in beautiful

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Maryland. She can still live out there, but now she comes into the ivory tower and we're welcoming this level of involvement.

And Katherine Benham was promoted this year. Katherine, most of you know, is our board specialist. Katherine was promoted this year and has taken on some new responsibilities in addition logistics and contracts that she has done before. She is also, as I mentioned, dealing with our budget. As complicated as our budget is, it's only \$1.24 million but we're hoping for much more. We're waiting on our appropriations to see what happens with that.

But Katherine has also taken responsibility for managing the list of certified operations. Right now, there's roughly 20,000 NOP certified operations. And keeping track of that list on an annual basis and trying to keep the database in a searchable format is what she's been working on right now, doing a great job and it's been a valuable tool already. We're looking for more great things there as well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Some of the docket work that we have going on. There's a crops and processing document we got a final rule out of NOP this year. It was cause for celebration. I know that it's a frustrating, long, bureaucratic task to get things from the point where someone in the public says we would like for you to do this, and provides us with the information, and gets it to a point where it's gone through all the filters and checks and balances, and finally publishes the final rule. So, we have the crops and processing document is part of the law now, as of September 11. And that, those, the board has been provided with new copies of the rule and the new rule is posted on the website for the public's access.

We've also got a 06-04, which was a proposed rule for crops and livestock. This was mostly involved with sucrose octanoate esters. That's a proposed rule. We received a whopping 12 comments on that. We can work with that level of information. We're working on a final rule right now and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

it shouldn't be, you know, five years before that's out. It should be something we can get through very quickly. Sucrose octanoate esters would appear on two areas of the national list for crops and for livestock for mite control.

Let's see, I missed one, though. That's the one that Hugh's going to jump on. Do you want to hold that until the end, that discussion?

MEMBER KARREMAN: Sure.

MR. BRADLEY: Okay. Just so I can get through this and we --

(Simultaneous speaking.)

MR. BRADLEY: There is a proposed rule that closed, it was published July 17th, closed September 15th for the livestock materials. It's a very much needed proposed rule. It needs to be finalized as soon as possible. When it came out, we got over 100 comments. I believe, as of last week, those are finally posted on the website. We're looking at that. It's going to take us a while to process that information.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

There were some serious comments on this. The Program worked with FDA to come up with what was available option-wise as far as what we could do for particularly some of the annotations that were included in that proposed rule. We realize that these are, there is confusion on this, a lot of frustration. We're willing to maintain a conversation on that and find out exactly what we can do, as far as allowing those substances to be published as close as possible to what has been recommended by the board.

A lot of angry comments on this. Of course, we get comments ranging from why don't you just do what the board tells you to do, to some very clearly and concisely written comments that provide, you know, exact issues as far as what has been said as far as precedence, what FDA requires, what the federal law requires. And there is some discussion that can be had with this. This is one of the heavier things on a regulatory plate.

Last but certainly not least is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

the access to pasture docket. Again, as Barbara said, we hope to have this out. We would have liked to have had this out about three months ago. It's an important piece of work that we have in front of us and this is just the first of a few regulatory pieces that we need to get in place to get everything settled out as far as dairy, in particular, goes. And it's good that we've got the expertise on the board to deal with the opinions that we're going to have on this. When we get the proposed rule out, we'll have a significant comment period. And we're hoping that we'll have a lot of very carefully thought out, useful comments.

We expect volume. We expect that there will be 100,000 comments and, you know, 95,000 of them will be form letters, you know, where people are weighing in an expressing their concern.

We agree that there's value in the quantity and quality of comments. And while this is out for a proposed rule, when it comes out, we would like for the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

community to very carefully, and the board as well, to consider what the impact of what we will be proposing will be on their businesses, so that we can give this serious consideration. Once it comes out, we've heard that there's talk in the community, that once this comes out as a proposed rule, that it's actually a done deal and that's not the case. We're hoping for substantive comment on this.

We're going to get it as close as we can. It's been a tough reg to write. It's very invasive as far as how the industry operates. It would be a big change for not just large producers, small producers, but it's going to impact everyone. The level of involvement is going to be significant, so we need substantive comment on this.

So, we're looking forward to getting that out and then we're looking forward to hearing what you all think about it.

Other regulatory activity. Of course we have sunset going on and it looks

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

like we may get this done on schedule. The sunset docket is at OGC right now. It's moving through. We've got a meeting set up to discuss it as soon as we get done with the board meeting. So, we'll keep you all apprised as far what the status is on that.

There's also a docket that's been published, it's an information collection burden. It comes out every two or three years and this is something we have to do every so often to explain all the paperwork that we require of the industry. I think we got one comment on it the last time that this went out. And I think that was of the nature that says, well, it's too much paperwork. If you have any ideas on how we can reduce the document burden on the industry and on government or, you know, the certifiers, we're always welcome to hear ideas on that. So, take a look at it. Give it just a reality check.

For other highlights for 2006, we did a lot of training this year. I come from a training background and I realize the value of, you know, for standardizing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

procedures. It's important that everyone knows what the rules are, how the Program is applying regulations, what the procedures are for accreditation and certification.

So we've trained, held trainings around the world. We did a training at Eco Farm last year and we're going to be doing another one this year at All Things Organic in Chicago. We trained at the Upper Midwest Organic Farming Conference. It was very well attended. At the international level, we went to BioFach over in Nuremberg, Germany and had a training session over there.

And then, in conjunction with the pasture symposium in the NOSB meeting, of course, we had the training session at State College and that one was opened up to the board members. Any time any of the board would like to sit in on these training sessions, if there's one near you, just come on down. Let us know that you're coming and we'll get you set up with some materials.

Also for 2006, we had 6 new certifiers. ASCO, out in California, Primus

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Labs, Yolo County, Kentucky Department of Agriculture, and AGRECO, a German certification company, all joined our ranks. Oh, and Certimex as well, our first Mexican certification company. We have other certifiers that are operating in Mexico, but Certimex is the first one that's based there.

Now, on the way out of NOP, five certifiers leave NOP. QC&I surrendered. Stichting Skal surrendered their accreditation. Stichting Skal has Skal International branch, sister organizations that it wasn't worthwhile for them to stay afloat with the level of document burden that was attached to one of them. So, Skal International is remaining.

Organic Forum International surrendered their accreditation. Michigan, Organic Growers of Michigan surrendered.

And, of course, American Food Safety Institute was the first to have their accreditation revoked for cause. Something we don't take particular joy in doing but it's one of the things as a regulating body

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

that happens sometimes.

For recognition agreements, we have two new recognition agreements this year. First was with India. APEDA, Agricultural and Processed Foods Export Development Authority is their accreditation body. They have a dozen certifiers that are already operating over there, some of which were already accredited with the national organic program directly.

A recognition agreement is not equivalence. All it does is gives a sovereign government the authority to accredit certifiers based on our same protocols, to apply our standards to export products to the United States. There is no reciprocity with it. It's not equivalence. It does not change our standards. They are applying our standard in their country.

The benefits for us on this is that it allows us to focus our efforts on the directly accredited certifying agents. Then we can just work on a one-to-one, sovereign-to-sovereign basis with the governments there. And we are, we'll be --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

I'll talk a little bit about a trip that we have set up to go to India to service this agreement.

Also with Israel, we have a recognition agreement that was just issued within the last couple weeks. Their Plant Protection and Inspection Services, which is their regulatory body for this type of function over there. They were, they had, that discussion had gone from a request for equivalence to a request for accreditation as a certifying body and finally, they settled on the most expeditious format for them would be for them to accredit certifiers in their countries, so that they can act as a government body on our behalf over there.

This is particularly advantageous for us because travel in the Middle East is, you know, to say the least, it can be dangerous. There are travel advisories for federal employees in that area. So we were glad to let them handle that one at home.

We have, I guess that gives us eight recognition agreements now. We have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

three in Canada. We have the United Kingdom, Denmark, Israel, India, and New Zealand. This gives us a good scattering across the world when you pair this up with some of the direct accreditations that we provide.

For audit activity, we can now say that we have all the initial on sites completed for everyone that was certified with the initial round back in 2002. It was a big job. The internationals, getting the outstanding foreign audits completed was the biggest job. Most of that was from the standpoint of trying to make it, you know, financially possible to get these people down on a cost-effective basis.

The little audits down in, some of the audits down in Bolivia and foreign travel countries that are not, that have travel advisories, have been a problem but we're working with that.

And all of the 2006 annual updates, which were due to be completed this fiscal year, have been completed. The certifiers are doing a very good job.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

They're much more responsive now. They're kind of into the groove of, you know, providing their documents on time.

So this was part of our USDA's performance evaluation, is whether or not our industries are performing as required. So it was a very good thing for us to see these things come through on time.

Eighty-seven percent of our certifiers, I'm very proud to say, were in compliance when they sent in their annual updates. Only 13 percent had any major noncompliances and most of these were issues of absences of a required element, something where they administratively not provided as required. Just a very few of them were issues that had to be dealt with seriously. Of course, then you have the folks that were resigned.

One of the surrenders that we had was the result of an onsite audit where they just kind of threw their hands up and said, okay, we see where this is going. We'd like to call it quits, we were asked to leave. And they submitted their resignation. There

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

was never an action against them. But it was a result of the oversight process. So this is an example of where the system is working and how we're learning a lot as we go along.

The more compliance work, the more inside information we learn to deal with. We've learned the capabilities of these audits and learned their limitations, too. So, we're learning. The learning curve is still pretty steep for us but we're getting there, I think.

With the international audits, as I said, there's a good scattering. There's some, we're working on four or five continents right now. Australia was one of the first on sites that we did, of course. We worked extensively in Europe, North and South America.

One area that has conspicuously not been traveled to yet is China. China's been in the news. We know this. We know that there is a lot of concern about, or unknown issues, about what's coming out of China. We have not really received, we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

received two complaints that had been, that come based on Chinese products. Really, the level of complaints that we've had has not been nearly as much as what we've got from other countries or even within the United States.

But our concern with China is that we don't have any certification bodies that are directly accredited in China. So all of our accreditations are, it's like there's four major certifiers that operate in China, IMO, BCS, Ecocert, and OCIA, have major significant numbers of clients over there. We know that this is an international program. We realize that we haven't been there and we're remedying that, hopefully, to get there before the end of the year.

I would think that if we had the accreditation process, what we're wanting to do with that, -- this a time line where certified operations have to, or accredited certifiers have to have their renewals done. And as part of that renewal process, we are going to go to China. We are going to go to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

all the countries, not just China, where certifying agencies have significant activity.

The four certifiers that are doing business in China will help foot the bill for NOP to travel there as part of their re-accreditation audit. Those applications are due the 29th of October. Okay, today is the 17th so they have, roughly, two weeks. And out of the 30 some applications that we're expecting, we have two. So, we're expecting a lot of last minute renewal applications. Of course they're not going to submit them early. No one does. It's like turning in your homework. No one does that early. But once we have those applications, then we can make final plans to go to the places where people are stating that they do business. When we did the first round of accreditation, we focused on the home country where they were doing business. We had to spend a lot of time in the office. We did some site visits that were close by. We didn't travel internationally to a great extent, except in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Europe, possibly.

But this year, we're going to be going to all the places where they do business, or most of the places, and China's going to be one of them. And that's the first thing on our agenda, is to get over there so that we can come back with some kind of definitive description of what the controls are and to identify any weaknesses that may need to be addressed. So, we're looking forward to going over there.

We're also going to tie that in with the recognition agreement with India. I'm scheduled to go over there with one of the, the head of the of the audit review and compliance staff the week before Christmas. So it's, yes, they go ahead and schedule things for that part of the holidays because Christmas is not a real big issue over there, so we can travel over there. It's a big issue with my family, so I'm a little bit in the doghouse, but they're pretty used to me being on the road.

For our Program priorities for next year, sunset is the biggest thing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

It's something we have to do. It's regulatory, it's got a time line attached to it. The pasture regulations are right up there. There is nothing more important, in my mind, than getting that resolved and getting an A in PR and getting the process started for dairy herd replacement as well.

606 procedures are also critical. They have to happen very quickly. To get there, we have to have something done with Ag versus Non-ag descriptions so that we're talking about, know what the Non-ag or agriculture going into 606 are. And we need to talk about commercial availability. We're looking for great things to come out of the board, as far as guidance on that or some kind of collaborative decision there.

Dairy herd replacement, I mentioned that. Grower group certification issues. We're hearing lots of concern about that, lost of talk around the list serves that are going around, so we'll be talking about that.

Identification of certifiers on the labels, retail certifications, dealing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

with co-packing arrangements, those types of issues are out in front of us and we're going to look at that. Certifier accreditation renewal will be something that's going to be a big focus for us over the next year.

And also, the NOP quality management system. This goes back to the two big things that were presented to the Program. The ANSI audit was a very complete and detailed quality system audit. It identified a lot of work that the NOP needs to do, it's direct for us, it's input from the industry, as far as the things we need to do to have our processes more fully defined. We've, in our minds, addressed them from the standpoint that we've found where the pieces and parts are. But I don't think any responsible program manager can say that we're ever done with that. Quality management is a continuous improvement process and, with adequate funding, we would like to hire a full-time person that will be responsible for quality system management at NOP. We're looking for that. Again I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

mentioned that our appropriation hasn't come through yet. We're operating on a continuing resolution but there's some hope that there may be significant increase in funding for NOP and that would be very welcome.

Coming training events, just for dates. I'm going to be meeting with audit review and compliance staff and seven of their key people that will be doing the renewal accreditation audits in Fredericksburg November first and second. This is going to be two days of putting our heads together, setting up game plans, finaling up audit schedules, making sure it's cost effective and making sure all the auditors are aware of who they're going to be dealing with this round of accreditation. We've learned a lot with the last round and we're going to make sure that everyone has taken advantage of that learning curve.

Again, I mentioned I'm going to India. Part of that is going to be training their accreditation body in New Delhi. That trip is set up from December 18th through

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

22nd. We will be touring around and spending some time with each of certifying bodies hopefully in the meeting, and with the accrediting body to make sure they fully understand their responsibilities and really answer some questions. There's only so much that you can do by email and teleconference. And this face-to-face is going to be an important part of ensuring that they understand the Program, what their responsibilities are, and what our expectations are, and what the public's expectations are of products coming out of there and the traceability requirements.

Eco Farm. We're set up with NASOP, the National Association of State Organic Programs, to do some training at Asilomar this year. I always try to find an excuse to go out there. It's a great conference. I'm going to try to drag some of the staff out there with me. That training, that conference is set up for the 24th through 27th of next January. I'm thinking the training is probably going to be, it's usually the first day, try to work

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

it in there, but the exact date will be announced.

Then, of course, we'll be making another trip to BioFach. This is a good place for us to meet with the international certifiers. It's a party that everybody comes to. We generally have about 25 certifying agents, international certifiers represented there. That's set up. Organic Trade Association is hosting that for us, we appreciate that. And that will February 15th. That's already on our dance card.

And that's what I have as far as structured comments. Are there questions that I may be qualified to answer, or Barbara? And she's not here.

CHAIR O'RELL: Yes. Thank you, Mark. I think we have some questions. Joe?

MEMBER SMILLIE: Right. A couple follow-ups, Mark. Good presentation.

The training sessions, certifier training sessions. Those aren't mandatory in any way, shape, or form, or do they count as part of accreditation? Do people get points for going to them and participating?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Because sometimes the people who don't need to go are always there and the people who kind of do need to go, we don't see them. So I'm just wondering how you deal with participation in the trainings?

MR. BRADLEY: We -- thank you. That's a good question. We don't have the regulatory authority that we've identified to make attendance mandatory. I think that if we said that you have to come to one of those things, it would be like one of those unfunded mandates. If we wanted to pay everybody's way and have them come and pay their travel and put them up in hotels and do that, I think we could say, you know thou shalt come, and they probably would.

The way that we presented this is that we said it's really to your benefit to come. There will be information there you will get no where else, there is networking that is very beneficial. And it's just like you said, some of the folks that come, the ones that really need to be there, that we would really like to visit with, don't necessarily come. They are still

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

responsible for the information that we present.

There's nothing new that comes at the training sessions. It's clarifications, it's case studies, it's answering frequently asked questions, it's hot topics. We have a lot of fun. There's a lot of good discussion that comes to the program as well.

We're actually kind of billing them as more certifier meetings than training. They don't really get points or credit for it. Like I said, there's nothing mandatory but it does lead us to a conclusion. For those that do come, we know that they heard the information. We take attendance. And if you're there, you're bound by the information that was presented. If you're not there, you're still bound by the information insofar as that it's part of our regulations. So it's not required but we would really like it to be. And if the board wants to make a recommendation like that, I'm just, I'm all ears.

CHAIR O'RELL: Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MR. BRADLEY: I think it would require some kind of funding to make it mandatory.

MEMBER SMILLIE: The second question has to do with oversight of the government recognition agreements. I'm a little fuzzy on that. It looks like your program for India is clear and outlined and I think that that's wonderful. Does that mean that you've done the same for each of the other recognition agreements?

MR. BRADLEY: We have not. We have not traveled to these countries that have recognition agreements. It's been done in the past on a sovereign-to-sovereign basis, where we recognize them as a sovereign government with the regulatory authority to act. But, and new sheriff in town, I've had some different ideas on this. And that's why we're going to go to India and we're going to go everywhere else as well.

I think there's -- training has to happen. There needs to be a question and answer dialogue going on between the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

recognition bodies. We see questions coming out of the products or the producers of products that are produced under these recognition agreements frequently get deferred to the National Organic Program. We would like for all of the recognition agreements, all the accrediting bodies that are acting on our behalf, to be so knowledgeable and so well schooled in NOP, through open dialogue and a closer relationship, that the questions that come to us are more obscure, they're really things that are not basic, very basic issues.

And then this is, again, something that's going to cost some money. We do not charge for trips on recognition agreements. There's no funding, there's no requirement for audits. Maybe this is something we need to change, but this is something on NOP's ticket. And this is one of the things that, if we get additional funding, will absolutely happen. We've made the commitment for India because that's going to be the new drill, is once we get

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

your recognition agreement in place, we schedule a visit and we make sure that you understand your responsibilities and that you're really truly qualified, just like we do for a certifier. We'll allow him a little time to operate and to identify who their certifiers are, but there has to be close monitoring. And I don't know why it hadn't been done in the past. It's probably funding, it's time, it was just trying to get the program in place. I'm thinking we'll do a lot more detailed or a lot smarter type of accreditation audits as well for our certifiers.

CHAIR O'RELL: Andrea?

MEMBER CAROE: Mark, actually Joe asked my question, but I have a follow-up on that.

For those products that are coming in certified by an operation that is accredited to an organization that is recognized by the program, the enforcement on those, if those products come into question, what is the procedure? I mean, would you be investigating that certified

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

operation? Would you be investigating the accrediting body? Would you be investigating the certifier? I mean, how, what is the line of authority in those agreements in how you actually, you know, enforce, these regulations of this standard on those bodies?

MR. BRADLEY: The authority that's assigned, it is as though we have taken NOP, the National Organic Program, with its accessory compliance staffs and auditing staffs, and planted them into the U.K. or Denmark, or Israel, and wherever. And that's what we look at when we do a recognition agreement. It's ISO, well, it's a 17011 now, assessment system where they have to have those processes and authorities to do exactly what we do in their country, for their certifiers that are operating in that country. So they have to have the same compliance mechanisms in place.

MEMBER CAROE: But I'm not talking about the investigation into whether the agreement should be set. But I'm saying if a product is identified on the market for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

being questioned as far as its compliance,
how does that investigation happen?
Barbara's got her hand up.

MR. BRADLEY: That's why I'm
saying, this has, they have the same
authority as NOP in that country and they do
the investigations and they do the
enforcement.

CHAIR O'RELL: Barbara, did you
want to --

MS. ROBINSON: The sovereign body
is supposed to do the investigation. The
sovereign body that we've recognized does
not do the investigation as we would. And
what Mark is saying is that then we start
having discussions with the sovereign body
and say, why aren't you doing what we would
do in following through on the
investigations?

MEMBER CAROE: So, if a U.S.
consumer calls into question a product, they
should wage their complaint to that
agreement -- to that accreditation body and
not the program. Is that what --

MS. ROBINSON: It works no

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

differently than it does here. You know, you start with a certifying agent and work your way up to the accrediting body, just as it would here. And in this case, you know, we would probably be the liaison with the sovereign body and help out in that regard. But first, it just starts with a certifying agent --

MEMBER CAROE: Okay.

MS. ROBINSON: -- as it does here. You know, we contact a certifying agent and say what's going on.

MR. BRADLEY: That's what I was saying, Andrea. They have to have the mechanisms in place before we would grant them recognition as an accrediting body.

CHAIR O'RELL: Nancy?

MEMBER OSTIGUY: I'm going to go back to the beginning of your remarks. And thank you very much for getting things through that very long process onto the National Register. We're all very appreciative, I'm sure.

What I also want to say is that while it's a very long process, I much

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

prefer the one that we have than what we would have if we weren't a democracy. And the fact that it takes so long is because we all have to be able to have our says. And that's okay by me because I wouldn't want it to be otherwise.

So, thank you very much. And it's okay that it takes that long because you have to listen to us.

MR. BRADLEY: Well, thank you. We'll try to expedite it to every extent possible, though.

MEMBER OSTIGUY: Well, yes but you do have to listen to us, so that takes time.

CHAIR O'RELL: Hugh?

MEMBER KARREMAN: Yes, I'd like to just add on to what Nancy said, but also specifically thank Toni Struther and Arthur Neal for shepherding the livestock materials through the FDA process. And now that they're on the ANPR in the form that they are, I believe that the industry and the animals will be better served and hopefully, there is a final rule proposed soon.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

So thanks again for doing that for four years, I think, it took of your time. But like Nancy said, you know, there are processes, checks and balances that we have to respect and go through.

Then I just wanted to ask Barbara, from what you were saying with your comments, is there anything we can do as an organic community to get more funding for the NOP? I mean, the organic industry is growing at 20 percent a year and regular conventional agriculture is generally a flat line growth. So you'd think that the USDA would put more resources into the organic program. Is there -- what can we do as a community? Is there anything we can do?

MS. ROBINSON: Well, as board members, you can't. You know, we've explained that to you before. As board members, you can't lobby, obviously. And as federal employees, neither can we. We're bound by the President's budget. This is the first year we were able to get a budget increase in the President's budget and we were very excited about that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Now, we do have a budget increase on the Hill. Unfortunately, we're stalled in a continuing resolution. There has been an effort underway to divert part of that increase away to cost share. And we're hopeful that that doesn't occur because, frankly, the states, according our bookkeeping, our records, the states barely use 40, at the most, have only used 40 percent of the money that we have given to them for cost share. So, we don't think that's necessarily the best use of the budget increase. We would rather see Congress come up with additional money for cost share, if that's what they want to do. But, and we are hopeful that the House will restore that money. I think the Senate was where they tried to take the \$500,000 out of the \$1 million increase. And even at that, we're not talking about sizably increasing this budget.

Yes, sure. If the organic community is so inclined, yes, I guess the organic community can go and lobby Congress. I have gone to the House and the Senate and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

explained our resources and explained what it is we try to do. And, you know, I don't know how I can make it any plainer, without saying we need more money, which I'm forbidden to do. You have a trade association. The trade association, in my understanding, often makes this case to Congress. But we also live in a world, understand, it's a pay-as-you-go Congress these days. Whatever they give to one program, they have to take away from something else.

So, you know, I hear you, Hugh, and it boggles my mind every single day. I don't understand it anymore than you do. And you know, I don't know. But you're the industry. You know, you have go and do it. We can't do it. You can't do it as board members. So, you know, you can get organized. I mean, I've seen you do it. So, --

(Laughter.)

CHAIR O'RELL: Now, just to be clear. As board members, you can't do that but as private citizens you can do that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

UNIDENTIFIED SPEAKER: What, get organized?

(Laughter.)

CHAIR O'RELL: Lobby for funds. Bea, did you have a comment?

MEMBER JAMES: Yes, I just wanted to make a comment on Hugh's question. I think part of the problem is, also, that you're talking about a very very large industry of conventional products that generally take up most of the industry. So, when you're talking about organic sales, that's still a single digit percentage of the overall \$550 billion industry of retail food.

So the more money that we, I believe, that the more this industry grows, than the larger it speaks to probably capturing that funding.

MR. BRADLEY: Anything else? Any other questions for me or Barbra?

(No response.)

MR. BRADLEY: Thank you.

CHAIR O'RELL: Thank you, Mark. And thank you, Barbara.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

We are exactly on time. That is good. We're scheduled for a break now. So we're going to have a 30 minute break. What time -- 15, sorry. That was wishful thinking on my part. A 15 minute break and then we'll be back here to take up the Pet Food Task Force. Thank you.

(Whereupon a short recess was taken.)

CHAIR O'RELL: Okay. We'd like to resume with the National Organic Standards Board meeting. Next up on the agenda was a Pet Food Task Force update and discussion that was going to be led by Nancy Cook. But I don't believe Nancy is here. Is that correct?

(No response.)

CHAIR O'RELL: And Emily has graciously accepted and offered to step in, at the last minute, and give us an update and report. Emily?

Pet Food Task Force Report Update
and Discussion

MS. ROSEN: Hi, I'm Emily Brown Rosen. I'm the Secretary of the Pet Food

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Task Force and I gave a little update, I guess it was, one of these last meetings. April? It seems like a long time ago.

Yes, I guess -- I'm sorry Nancy's not here. I'm not sure what happened. So I didn't really have anything major prepared, but I can talk for a few minutes about where we're at.

The Pet Food Task Force have been meeting for like a year and a half. We came up with a draft proposal on revising the regulations to accommodate pet food more specifically and that's been since last April and was provided to you at the last meeting. Since then, we've left it open for comment and there's only been about four or five comments filed on the document.

The task force also worked further to develop a labeling guide that is now also posted on the website that talks about, gives examples of labeling categories and helps to combine the proposed organic labeling categories, along with the existing, conventional pet food labeling rules. So, it's a little complicated but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

that was a little bit of a work of art to try and lay those things over each other so that they can be used by industry. But we're -- that's up now also for any feedback and further comment.

But our plan right now is, we've had another meeting this summer and gone over the weight of the comments that we received. And what we're going to do is revise that draft and leave it in revision mode with the comments that people have made and then hand it back to you. And I actually have that mostly done, but I haven't gotten to it yet. But I'll try and get that to you in the next couple weeks and then it will be the board's job to take this one and decide what to do with it. You know, go for it, not go for it, make changes, etcetera. So, we're basically done and we're willing, you know, to sort of stay around as a virtual task force, but and you know, if you need more help with it. But at this point, I think it's pretty much ready to go and it's up to you to move it forward.

So, yes, and it's been a really

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

good group. We've had really good meetings and there's been a lot of contribution from different parts of the organic and nonorganic pet food world.

So I don't think it's really hit the fan yet in the sense of the wider world recognizing or paying attention. So that's going to be important to get more press for it. I did give a presentation this summer at the AAFCO meetings to walk them through it and explain the whole thing. And there was a lot of pet food people in the audience and there were a lot of questions. And I think there's a lot of interest, too.

Julie?

MEMBER WEISMAN: Can you tell people what AAFCO is? Because it's a lot of acronyms.

MS. ROSEN: Oh, yes. Okay. AAFCO is the Association of American Feed Control Officials. They are the body that is charged with regulating pet food. It's regulated as a sort of subset of livestock feed in the real world and, other than the organic world, and so this is not done

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

federally, it's done at the state level.

And they have an annual meeting where all the state appropriate officials get together and argue about their rules, because they have a set of model rules that they publish. And then that gets adopted by each state, more or less. So, it's another whole bureaucracy that's out there we need to fit in with.

I think that's it. As I say, we're going to give you one more draft that includes some of these comments that were mostly good suggestions and we are, I think there needs to be some more outreach to get more people in the pet food world paying attention.

I mean the other point is, that there are certified organic pet food products on the market now already and there's getting to be more of them. So it would be good to move kind of promptly on this before a whole lot more products out there that might end up being mislabeled and that sort of thing. Because this really kind of pins down what they can and can't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

say on the labels and what the content is like.

There is going to need to be a couple of items petitioned, particularly taurine, I think is the one that we need to encourage the manufacturers to petition because it's an amino acid that's pretty essential for cats and apparently there's reasons why they can't find a natural form. So, that's not on the list yet, so that's going to be probably the first one you'll see. I've been trying to tell them that they need to petition, but you know, it's slow to get that to happen.

Okay. Anything else?

CHAIR O'RELL: Julie?

MEMBER WEISMAN: Yes. I just wanted to make one comment to Emily, as the proxy stand-in for the rest of the task force that it's quite an impressive amount of work that was done. And I came into it a little bit, you know, late in the game for a part that I thought was just incredibly complicated. That whole business with the labeling and how to make all the different

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

scenarios. You know, if people have a chance to read that part of it, it's quite complicated and you guys did a pretty amazing job of like distilling it down to, you know, understandable scenarios.

So I just, I think the task force is really to be commended for having been able to pull that off.

MS. ROSEN: Well, thanks. Actually, it was hard because, you know, there's not really two people that understand both organic and AAFCO. And I tried to do that but it was like speaking two languages. But hopefully, it will be useful to everyone who reads that. Okay.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: Yes. Again, that's important work what you're doing.

I also, my question is more directed to Mark on what the current position of the NOP is versus on the certification of pet food. Again, we're not talking pet treats, but pet food. Where does the program stand on the proliferation of certified product on the marketplace, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

pet food marketplace, in the marketplace?

MR. BRADLEY: As far as what the standards are for that?

MEMBER SMILLIE: Yes.

MR. BRADLEY: The same standards as everything else. The August 23rd memo.

MEMBER SMILLIE: Okay.

MR. BRADLEY: Now, are you talking about the difference between that and livestock feed?

MS. ROSEN: Well, we did have a conversation with Keith Jones when the task force was underway about that. And his message, I think to the manufacturers, was that, you know, we're working through this. In the meantime, if you can do it, you can do it. It's certified and it's okay to have the label on it in the current time period. Because that was, you know, we had members on the task force with certified products and the message was, you know, we're not going after you individually now. We're going to talk about this. This is in process. And then the August memo came out after that. So that's basically what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

certifiers are doing.

I'm not sure exactly what parts of the rules certifiers are using, but they're doing it and it hasn't been contested. And so there's product out there. I think mostly, they're following processing rules. But it's not clear altogether. So, --

MS. ROBINSON: Okay. Pet food isn't livestock feed. Pet food is -- people buy pet food. I mean, pet food is --

MS. ROSEN: True.

MS. ROBINSON: -- a consumable product. Pet food is covered under the August 23rd memo.

MS. ROSEN: Uh-huh. Okay.

MS. ROBINSON: That's all.

MS. ROSEN: Uh-huh.

MS. ROBINSON: So, if it meets the standards, and it's eligible by content to be labeled, then it can be labeled.

MS. ROSEN: The question comes up when there are some things allowed on the livestock list that are not on the processing list, or vice versa, which

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

materials can you use. So that's where I think there's been a little, probably, give in what people are in enforcing.

But we are classifying it as, in the conventional world, it's regulated as livestock feed. It's a subset of livestock. It's FDA statutes of identity are all part of the livestock feed standards. So that's why we've chosen to go that route as far as crafting the regulations, but with adding the labeling components as per human food.

And we've also proposed that everything on 605, provided it's suitable for animals, can be fed to pets. And everything on 603. So, we've kind of said the best, you know, we've identified specifically which parts of the rule apply. So that should help.

MS. ROBINSON: Remember too, at the bottom of that memo that is says that if there are additional standards that need to be proposed and developed, those would be incorporated under the regs. So, you know, if that has to happen, then we would get to that, too.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

But in the interim, you know, you just meet the standards.

CHAIR O'RELL: Bea?

MEMBER JAMES: I have two questions for you, Emily.

During your work on this summary, did you discuss the fact that a lot of people and I know this may seem humorous but it's the truth, a lot of people consider pets almost like children and that they really don't like to feed their pets anything that they really wouldn't consume themselves and the consumer perception around some of the decisions that you made and how that might be perceived?

MS. ROSEN: Right. That came up, I think, in a discussion of slaughter byproducts, feeding animal products in general. I mean, there was quite a bit of discussion about, you know, allowing them at all or limiting the types that could be allowed, or, you know, something more restrictive.

And there was talk about the consumer interest in that and basically, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

way that there was too much objection to putting that in. There was a feeling that that could be market driven. People can make additional claims that no slaughter byproducts, if they don't want slaughter, or only pure organic chicken, or whatever they're going to make on there, that that would be unduly restrictive on the formulation.

So, but certainly we expected public comments on that. We really haven't gotten any to that effect. So, it might be good if you, if that wants to go out to more the consumer point of view, to get more feedback on that.

MEMBER JAMES: Okay. And then my second question was on page seven, subpart B, 205.105.

MS. ROSEN: Okay. I'll find it in a minute here.

MEMBER JAMES: You have allowed and prohibited substances, methods, and ingredients in organic production and handling. And you list, A, synthetic substances and ingredients, except as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

provided in 205.601, 205.603, and then you list it again under E and it's underlined, so it would be a new addition.

MS. ROSEN: The underlines are new, yes.

MEMBER JAMES: And I was wondering if you could explain, you know, how those two really are different and why you couldn't just go with A?

MS. ROSEN: I'm going to have to look at that. I don't have it front of me. But I'll go over it with you, if you want. I didn't come prepared to look at that.

Oh, I now, there was one other point I wanted to make on the slaughter byproducts, which was, if we prohibited -- well, I guess the other argument, not argument but discussion we had was on some restrictions which we felt would be more restrictive than the food rules. I mean, we basically stayed within the paradigm of the way food is regulated, too. So, you know, there's all kinds of meat products in human food and we're talking about organic meat byproducts.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER JAMES: Right.

MS. ROSEN: They're not restricted in human food.

MEMBER JAMES: Sure.

MS. ROSEN: So we didn't feel like the pets should be more restrictive than the human food.

MEMBER JAMES: Right, I understand that. I just know, as a retailer, that the consumer that generally buys organic pet food has pretty high standards about their pets.

MS. ROSEN: Right. Yes, I can believe that. Okay.

CHAIR O'RELL: Dan has a question.

MEMBER GIACOMINI: This may be more for the Program, so Mark, a large part of this document included the aspects of made with organic. But I notice that on the item for public comment, it refers that to the regulations do not allow a made with organic label claim. Is that, how do those two fit? Is this something we can -- is that the current regulation and this is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

something we could possibly modify through NOSB or is, what is it going to be? Is there a potential problem with a made with organic claim for pet food?

MR. BRADLEY: Our regulations don't allow made with organic?

MEMBER GIACOMINI: I'm looking at the item for public comment document that went out. I don't have a date on it.

MS. ROSEN: I could maybe address that, if you want. I think what that was referring to is the fact that livestock rules don't allow for a made with organic product. So, if we're applying, that's why we needed to do the job here. If we're going to reconcile livestock and processing standards, there was clearly a need for made with organic pet food category.

But some of the other things about livestock rules fit better than the food rules. So that's why those three labeling categories are in the proposed pet food and it does take a regulation change to make that clear.

MEMBER GIACOMINI: So, we would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

need a regulation change --

MS. ROSEN: Yes.

MEMBER GIACOMINI: -- to allow
for that within pet food?

MS. ROSEN: Right. I mean, well,
as Barbara says, you could certify it as if
it could meet the processed food standards,
that's the alternative, and not make those
other changes. But we feel, overall, if
it's better --

MEMBER GIACOMINI: Well, that
would just have a huge impact on what we
need to be looking at adding on the national
list, if, whether we can, the made with
organic is a viable alternative.

MS. ROSEN: It certainly is. I
mean, I think it's going to be probably the
major category for a while.

All right. Valerie asked me to
remind you, too, that when people are
formulating pet food, companies are
manufacturing pet food, they have almost a
higher standard than human food, in that if
they're going to make a claim for a complete
and balance food, it has to meet the total

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

animal nutrition requirements. So that's why it's important to have the regs clearly adapted for, you know, identifying the materials and you know, what's allowed, not allowed, agricultural, nonagricultural, that sort of thing. Because they don't have, you know, they have to still total nutrition requirements. I'm sure you're aware of that.

So that makes it, all the ingredients have to be approved by AAFCO, have to be listed, or an FDA oversight on them. You know, they can't just add stuff that's not already approved. And there's a whole big regulatory scheme set up already for that. So we just have to fit into that and add on to it, the organic flare. And that's why we thought really hard about where to put it in the regs.

CHAIR O'RELL: Andrea?

MEMBER CAROE: Really quick, Emily, I see that you've referenced both 205.603 and 605, --

MS. ROSEN: Right.

MEMBER CAROE: -- as allowed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

materials in the nonorganic portion. It seems to me that 603 does not apply. These aren't livestock. These animals are not livestock. As an alternate solution, knowing that these things are needed for animals, was there any consideration during the task force of recommending that these things be included on 605, these items that are on 603 right now, being petitioned and put on 605 for use in --

MS. ROSEN: It could be done that way.

MEMBER CAROE: -- pet food?

MS. ROSEN: It seems like a bulky way to do it. If we can just say, these are universe of what's allowed. I mean, I know NOSB, years ago, recommended that all items on 605 should be allowed for a livestock feed, too, provided they meet FDA requirements for livestock, and that hasn't gone anywhere. But we thought we'd try it this way.

I would disagree with you. They are appropriate for, feed additives used in livestock are the same feed additives used

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

in pet food. Pet food standard of identity, as in the AAFCO publication, is all, they all have to be in that book and they have to be reviewed by the, you know, the FDA has oversight on that.

So there is, you know, there's a lot of those additives that are used to formulate products as carriers, additives, etcetera, rosemary, etcetera. There is a lot of reasons why the livestock list should apply. Also, the fact that the assumption is that naturals are allowed in pet food. Naturals that are not on the national list. Whereas, for processing, all the naturals have to be specifically listed. So, that's another reason to go with the livestock structure on the list and say naturals are allowed without all having to appear.

MEMBER CAROE: I agree with you that it is an easier solution. I just don't know that it is as well grounded in the regulation. I mean, we do have things listed on two separate lists that are the identical material.

MS. ROSEN: Well, I mean, this is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

a path to choose in the future, too, for other sectors, too. I mean, is it easier to have, I mean, we could have done it that way, just have a whole separate section of the rule, with these are the livestock standards, this is the livestock list and repeat all that stuff. I thought it was better to try and blend it in to the existing regs. You know, it could have been done the other way.

MEMBER CAROE: Well, I'm not suggesting that you disregard 605. I'm suggesting that you disregard 603 when you're talking about pet food because it is processed food. And so 605 and 606 become, clearly, applicable. But I think that 603 just kind of confuses the matters a little bit because as the Program has stated in their memo, that it's not livestock. And I want to come up with eloquent solutions --

MS. ROSEN: I don't think they stated that.

MEMBER CAROE: -- in order to accomplish what you're trying to do. You know what I'm saying? So, I just put that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

out there to see if you had considered it, or if you, you know, feel that there would be any, other than ease and --

MS. ROSEN: Well, I think that the premise from the committee was we'd start with livestock and then we thought we would add in the bonus of also considering the food additives and such that are already listed, because those, you know, that are appropriate. I mean, there is going to need to be -- well, maybe or maybe not. It would good to screen the list and make sure that everything that's eligible for livestock and pet food is identified that's on 605 and everything, you know.

But pet food manufacturers have to comply with FDA anyway. So they will know that, too. But, you know, it would be good as far as certifier training and that sort of things. And that's another thing. We're going to need, I think, certifiers and the pet food officials that are regulating labels. Because they actually can do us a very good service because they look at labels all the time. So there will be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

another, once this gets finalized, there will be another set of eyes out there looking at products and calling to the attention of certifiers if stuff is mislabeled or whatever. So, it would be helpful to have some training sessions with the state officials and also with the certifiers, once we get further down the road here, to help, whichever path we end up choosing.

CHAIR O'RELL: Thank you, Emily. We appreciate you standing in at the last minute.

Public Comment on NOSB Action and Discussion Items

CHAIR O'RELL: We're going to begin our public comment period. Let me just read from our policy manual, the NOSB Policy for Public Comment at NOSB Meetings.

"All persons wishing to comment at NOSB meetings during public comment meetings must sign up in advance. Persons will be called upon to speak in the order they sign up. Unless otherwise indicated by the chair, each person will be given five

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

minutes to speak."

And I would appreciate if you come up, if you have a proxy for an additional five minutes, at that time please let us know. Bea will be keeping the time, the five minute time and she will give you a one minute warning. And if you do not see the one minute warning, it is not her fault. The five minute period will end at five minutes.

"Persons must give their names and affiliations for the record. A person may submit a written proxy to the NOP or NOSB requesting that another person speak on his or her behalf. No person will be allowed to speak during the public comment period for more than ten minutes." That's with the proxy.

"Individuals providing public input will refrain from any personal attacks and remarks that otherwise impugn the character of any individual."

The first up for public comment session will be Brian Baker. And Brian will be followed by Jim Riddle. We're going with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

the big guns right off the bat.

MR. BAKER: Hello. I'm Brian Baker, Research Director of the Organic Materials Review Institute. I should have a proxy from Dave DeCou, Executive Director of the Organic Materials Review Institute.

I really appreciate all the work you've been doing and know you have a tough job. We want to do what we can to make it easier.

First I'd like to thank you very much for your work on the petitions. We support your recommendations from the Crop Committee to not add lime mud, sodium lauryl sulfate and sulfuric acid to the national list.

We also support maintaining the current annotation of calcium chloride. And we strongly support and really thank you for the sunset of colors that were not recommended by the NOSB in the first place and look forward to a case-by-case review of those as agricultural or nonagricultural, as appropriate for the individual colors.

So, moving on to this question of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

the clarification of the definition of materials, understand that much of this is driven by the misunderstandings or confusion, call it what you will, about whether things are agricultural or nonagricultural and whether they belong on the list of nonagricultural or the list of agricultural substances allowed in processing. We see these questions as not just isolated in processing, but would like to see consistency and also hope that this is an opportunity to get some clarity on the issue of food contact substances. We get questions from our subscribing certifiers, from the public, from processors, vendors, suppliers, all the time about this and really don't know where in the regulation they fit or how that is all, how that all fits together with the past NOSB recommendations and what's in the rule.

We're concerned that the decision making process on synthetic and non-synthetic is not going forward at this meeting. We see the question of what's synthetic and what's non-synthetic as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

related also to what's agricultural and nonagricultural, and also the clarification of the definitions. And we hope that this is just a short delay. We hope that it moves in but we ask that you not address agricultural or nonagricultural until after you've worked out what's synthetic and what's non-synthetic because we see that the two are very much related to one another. We think it's oxymoronic to have something that's synthetic and agricultural. It just, that's the way -- the NOSB has set its precedence on making these decisions. We understand that processing is different in that you have a definition of processing and that things that are chemically changed by cooking, baking, and so forth are non-synthetic, but we also understand that there are chemical reactions that take place that are synthetic that have agricultural precursors and that would open a huge Pandora's box that I don't think we're prepared to close right now.

This whole question of classifying single-celled organisms as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

agricultural, we think is premature and really needs further discussion and explorations on what the ramifications would be to reclassify. For example, yeast or dairy cultures as agricultural, especially so soon after the September 11, 2006 addition of microorganisms to the national list. I really thank the NOP for getting that on the national list and for everything else that was on that docket, by the way. And it affirms that the system works. It might take a while, but things eventually end up where they're supposed to be.

Having gotten it there, it would, a hasty change would have implications in crops and livestock that really need to be explored. And this whole question of what is an organic microorganism, every organic farmer out there knows that microorganisms are part of the agricultural system. That's not what the problem is. You've got rhizobial bacteria and things like that.

So, is it microorganisms that come from soil that's been managed organically for three years, for example? I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

mean, can we take streptomyces from an organic field, culture it on an organic media and then have organic antibiotics? The implications need to be explored seriously.

And also, we'd like to see what farmers think. I mean, what do farmers think about organic microorganisms. So, --

(Timer sounds.)

CHAIR O'RELL: You had a proxy, so, is what you indicated. Is that correct, Brian?

MR. BAKER: That's correct.

MEMBER JAMES: You have another five minutes.

CHAIR O'RELL: So, you have another five minutes. MR. BAKER: And if I need to get a physical piece of paper that says I have a proxy --

CHAIR O'RELL: No, no.

MR. BAKER: -- I'll have to do that after --

MEMBER JAMES: No, my timer was pre-set.

CHAIR O'RELL: That's fine. It's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

just the timer was set for five minutes.

MR. BAKER: Okay. Moving on to commercial availability. Most of our work with commercial availability is in the seed world, And we are developing, we have online liveseeds.omri.org and we're hoping that that will become a platform for certifiers in the industry to find out what seed sources are available organically. Rich Theurer will talk tomorrow about the prospect of using that as a prototype to move into the agricultural ingredients world.

And we support the intentions to grow in the organic industry but we're concerned that getting too many things on 606 will have the opposite effect. So the whole petition process is very important to see that things are not added to 606 that will have adverse affects on the growth, the organic sector.

And at the same time, the criteria being used to evaluate, we're concerned that the proposal will just make it too difficult to screen these out

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

quickly. They need to be addressed quickly. We don't see it as the NOSB's role to prescreen commercial availability. We'd like to see the criteria that are in the Act used and, also, would like to know what's happened to the two, I know it's not the NOSB's, but ask the NOP what's happened to the two agricultural ingredients that were recommended to be added to 606, gelatin, and shellac. And if those have, if there are good reasons for those not to be proposed or moved forward, I think that needs to be communicated to the NOSB, the technical reviewers, and the public, in order that we can understand better how to move ahead with other agricultural ingredients.

With respect to manure management, we're really pleased to see that that's on the agenda, that's moving ahead. We understand that pathogen reduction is very much in the public's mind. We want to see that the standards help protect the public, without adding undue burden to farmers, that they really achieve what they can to improve food safety. Concerned that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

there's not data to support what some of the specific recommendations are but we're not prepared, at this point, to come up with another alternative. We just see this as a work in process that's going to need continued research and continued vigilance.

I think that we can't -- I mean, to talk about the synthetic substances in the Compost Tea Proposal, only those synthetic substances that are on 601 should be allowed for use in sanitizing disinfecting the equipment. So, you've got chlorine, you've got hydrogen peroxide. But we don't want to see aqua ammonia or things like that introduced that could potentially be used to fortify compost tea products.

And with that, I ask if anyone has questions?

CHAIR O'RELL: Brian, thank you for your comments. Just a couple of comments from me and then I'll see if there's other board members that have questions.

Certainly, in relation to putting forth a recommendation of synthetic/non-

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

synthetic with Ag/Non-ag would have been our ideal situation as well. I think you were here this morning and heard the comments from the Program and why that didn't take place.

MR. BAKER: I understand.

CHAIR O'RELL: But we certainly do agree with that track. It makes sense.

And as far as food contact substances, that is something that's a priority with the Handling Committee. It was, in part, to be addressed with the synthetic/non-synthetic issue at that time, as well. So, it's there. We recognize it. I just want you to know that it's something that is high on our priority list to come out with some thought and recommendations for.

Are there any questions?

Barbara?

MS. ROBINSON: On the two materials that you asked about, Brian, they were never put through for 606 commercial availability. So, we didn't reject them. And because of the first Harvey case, they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

actually still can be used up until next year, until June 2007. They need to be re-petitioned to be put back on 606.

MR. BAKER: Have the petitioners been informed of this?

MS. ROBINSON: That I don't know.

CHAIR O'RELL: For the record,
Kim --

MS. ROBINSON: They were voted on, they were recommended, we did not dismiss the recommendations. Go ahead, Arthur.

MR. NEAL: Arthur Neal, for the record, National Organic Program. We recognize the fact that those two substances were recommended by the board for inclusion on the national list, I think it was 2003, if I'm not mistaken. And you have to realize, at that time, there was no 606 petition process, nor was there a commercial availability assessment done because those were considered to be agricultural.

And so, for the petition process to be complete, we recognize at Program level, if you're going to affirmatively add

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

those materials onto 606 themselves, they need to go through a separate review process. Those particular materials came through under the synthetic review process. there was no assessment conducted based on commercial availability and things of that nature which we are discussing today.

So that's why you did not see them affirmatively listed there in 606. However, we did not preclude anybody from using those substances. For anybody who is going to use them in the future after 2007, they will need to be petitioned so that they can be positively listed on 606.

CHAIR O'RELL: Thank you, Arthur. Okay. Thank you, Brian. Jim --

MEMBER GIACOMINI: Mr. Chairman? Just in case he has to slip out, I would like to recognize and welcome Arthur Neal at our meeting, since he wasn't here this morning.

CHAIR O'RELL: Yes, welcome Arthur.

Jim Riddle is up next and following Jim will be Grace Marroquin.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MR. RIDDLE: And I have a proxy from Alexis Baden-Mayer and I gave it, in writing, to Valerie.

CHAIR O'RELL: Thank you, Jim.

MR. RIDDLE: Yes. My name is Jim Riddle. I am Organic Outreach Coordinator for University of Minnesota and would like to invite everyone to visit our new organic website, organicecology.umn.edu. I've been an organic inspector for 20 years and recently graduated from the NOSB academy. And I speak today on my own behalf.

It's a pleasure to be here and I would like to commend the NOSB members and all of the task forces and the NOP staff for all of your hard work over the past several months. I am genuinely impressed with the level of work that you've done. And I'm pleased that you're maintaining and continuing to improve the board policies and procedures manual. And the new member guide looks to be an excellent and helpful resource for new appointees and I encourage that any future Federal Register notices for applicants for board include a link to that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

and to the board policy manual so that people have a good idea what they're signing up for.

I do endorse all of the NOSB's materials recommendations on your agenda. The organic seed discussion document and the Pet Food Task Force report, with no changes to any of those.

On the draft recommendation for commercial availability criteria, I see that as a significant improvement over the version that was presented in April. It provides more clarity on the type of information that's needed by the board to make commercial availability determination. And I encourage its adoption.

I further urge that the entire document information needed on a petition be posted in the Federal Register notice as final rule. It's still operating only as a proposed rule. The entire information needed on a petition has never been finalized.

On compost and compost tea, I really appreciate the work of the Crops

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Committee to merge those two task force reports into one recommendation. I have a few suggested changes. And in the third sentence of item number four, you have the word "should" and I think it should be changed to "must", to read that "compost tea must be made with compliant compost and/or vermicompost" etcetera, etcetera. The use of compliant compost for compost tea should not be optional.

In the third paragraph of item four, discussion of raw manure extracts or teas says that they can be applied to the soil. But in the rule in 205.203(c), it requires that raw animal manure be incorporated into the soil so I suggested the text be changed to match up with the regulation for the use of raw animal manure.

And I don't understand, in the very last paragraph, why compost extracts may be applied without any restrictions. And I would suggest that the same restrictions that apply to compost tea also apply to compost extracts.

On hydroponics, I support

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

surveying the ACAs regarding the certification of hydroponic operations. But I think that all ACAs should answer question number six on your draft, not just those that are currently certifying hydroponics. In addition, I think that you should ask ACAs that do certify hydroponics to provide the citation numbers from the rule that they apply when they're reviewing hydroponic operations and any specific guidance or interpretations that they've developed for hydroponics. And also, to request copies of the organic system plans and inspection report forms that they use for these type of certifications.

The information on certificates, I say bravo on recommending that expiration dates be required on organic certificates. As you may recall, it's been a contentious issue ever since the former program manager interpreted the rule as prohibiting the inclusion of expiration dates.

I have one request. I would like your rationale section to be expanded to state that expiration dates are also

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

important for organic farmers in order to receive crop insurance because that is issued for a set period of time. Also, it's important for the certification cost shares, where states are looking for verification of a set period of certification and when someone is applying for a research grant, that same information is needed.

I offer several changes to your standardized certificate recommendation. The new item number five really should read "the organic crops and/or products produced by the operation." As you know, organic certification is a process based, not a product based certification. While I agree that it's important to list the products, I think it's important that the wording reflect that type of certification. I think there should be a new category added and that is the labeling category for the organic products produced by the operation, in other words, whether it's 100 percent organic organic or made with organic. Critical information for compliance and purchasing purposes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Concerning that new proposed item C that says what size the paper needs to be and with three inches left at the bottom, I think that's overly prescriptive and should be removed. Almost half of the USDA certifiers and all of them under recognition agreements, are located outside the U.S. We live in a metric world. Eight and one-half by eleven inch paper and three inch margins are not world-wide standards. And I can imagine some paperwork reduction act requirement problems implementing this.

If addendums are used as part of a certificate, I think it's important that the master front page be required to make reference to the existence of those addendums.

So those are a few. And then I urge you, as you continue to work, to merge both of these recommendations about certificates into one document.

On Ag/Non-ag or NAG, I have some serious problems with this draft. While I don't disagree that the definition of nonagricultural substance is contradictory

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

and unclear, I feel that the proposed changes need a lot more work before final consideration. I do think that the proposed decision tree is helpful, but it needs to be routed in the definition and in some regulatory text. You can't have a decision tree just hanging out there without roots.

So, I propose some changes to the definition that you have proposed, so that it connects to the decision tree, so that a nonagricultural substance would be defined as a substance that is not a product of agriculture, such as a mineral, that used as an ingredient in an agricultural product or an agricultural product that has been processed to the extent that it's chemical structure has been changed, unless the chemical change is a result of a biological, mechanical, or physical process. So that takes some of the concepts from the decision tree and merges them into the proposed definition change.

On the third item of your proposal there, moving dairy cultures and yeast to 205.606, you simply can't do this.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

These are not technical corrections. They are changing an entire class of products from one part of the list to another. And we learned during the whole sunset process that you can't make even simple common sense changes to annotations without a petition. These substances have not yet been petitioned. They need to be petitioned, TAP reviews commissioned, proposed for public comment, follow the processes that work well and are transparent and protect yourself from any charges of arbitrary and capricious changes to the list. And you need the input from the manufacturers and consumers of dairy products, fermented beverages, baked goods and others to be engaged. This is happening way too fast.

And then also, it has implications for similar classes of substances currently on 605(a), including microorganisms, animal enzymes, carrageenan enzymes, natural flavors, waxes, they could all be considered agricultural. Yeast and dairy cultures should not be singled out without consideration of applicable, of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

other similar substances.

I'm really concerned that the kind of linkage here is those words or other non-plant life and the definition of livestock to then open the door to bacteria and all these other microorganisms. I think that raises the possibility of undermining the credibility of the whole organic claim. When people see that kind of thin rationale, it's also putting the cart before the horse. There need to be standards proposed, maybe a task force on microorganisms or kingdoms currently undefined by the rule.

But there need to be standards first, regulatory impact needs to be done and you need to move forward with the current known agricultural products, get them onto 606 before opening the door to all of these totally new classes of products.

Thank you.

CHAIR O'RELL: Thank you, Jim.
Any questions for Jim?

MEMBER JAMES: In regards to hydroponics, under terms defined in the regulation, organic production, I'm just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

looking for your comment on how you see hydroponics contributing to promote ecological balance and conserve biodiversity.

MR. RIDDLE: Yes. Well, I think if the plant is a naturally aquatic plant, like watercress or something like that, it makes perfect sense. But when you're taking a terrestrial plant and growing it in an unnatural medium, it would have to be approved materials, yes, I do have a hard time seeing how that fits the definition of organic production in promoting biodiversity, etcetera.

Yes, I think we need to be very thoughtful and look at what categories of crops really fit with the definition of organic production and can be produced organically and what certifiers are currently doing, is a good place to start.

MEMBER JAMES: So, are you suggesting that with hydroponics, only certain categories would be allowed under that type of production?

MR. RIDDLE: Well, I'm just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

saying what I'm comfortable with. And that is, plants that are naturally hydroponic are a perfect fit. The others may be, you know, I'm not closed to the idea, but it's a stretch and I think that is, would be defensible as a place to draw a line.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: Thanks for your comments and your support on commercial availability. And I think your comments on the certificates are well taken. Obviously, we got a bit more work to do about that. But I am especially pleased that that is moving forward and glad to have your support.

Your comments on Non-ag and Ag are noted. We've got, obviously, a lot of work to do. Again, just so that everyone is clear, basically, we felt that there was some inconsistencies in what was happening with materials and we really felt that we needed to place all of the materials, not just agricultural materials, but some of the ones that were not considered agricultural materials, and start to put some pressure

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

and start to probe to see how organic we could get some of these cultures and other things.

Now that microorganisms are on 605(a), I think we have the time. When we started this process, they weren't on it and we had no sure, you know, it wasn't a surety that they were going to be on it. And I saw that there would be a lot of products out in the marketplace that may not be allowed to be produced organically because of that situation.

I think having now microorganisms on 605 doesn't take away, I still think, the need for us to pursue, as you have mentioned, some in-depth discussion of these materials, and I think that that's what we will do. I think eventually, though, that we will see that a lot of these cultures and things that we're talking about, it was broad array of things, could be a lot more organic than they currently are. And that was the intention of the community. But now, I think we do have the time to start to pursue this and I think that we will.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

And thanks for your comments and some of the directions that you think we should have.

MR. RIDDLE: If I could just, you know, quickly respond, I don't want the Ag/Non-ag clarification guidance bogged down, though. You know, I think you need to divorce those microbes. You've opened up a whole new can of microbes by proposing that dairy cultures and yeast be moved in relation to this clarification on Ag/Non-ag. To stay focused on that, it empowers the whole rest of the work that needs to be done.

CHAIR O'RELL: Jim, Andrea has a question.

MEMBER CAROE: First off, let me say, I'm so surprised that you're in support of expiration dates. But good.

(Laughter.)

MEMBER CAROE: But anyways, in regards to your last comment on information and certificates where you suggest that we combine those two recommendations, information on certificates and standard

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

format, originally, we did consider this as a committee to put them together. We split them apart just for the sake of being nimble and actually getting these things implemented. By putting them together, if there was a problem with either one of them, they would stop. So, you know, I don't see any reason to put them together, at this time. I see reasons that that could hamper them getting implemented. So, I think we're going to continue with them separate, unless I hear --

MR. RIDDLE: Whatever.

MEMBER CAROE: -- for some other reason.

MR. RIDDLE: Whatever works.

MEMBER CAROE: You have mellowed out since you've been off this board.

CHAIR O'RELL: Thank you, Jim. Grace Marroquin, to be followed by Dick Siegel.

MS. MARROQUIN: Here I am again. My name is Grace Marroquin and I'm president of Marroquin International Organic Commodities Services, Inc. My company is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

based in Santa Cruz and we import and broker ingredients for the natural products industry.

I'm here, once again, to support the classification of yeast on a national list as an agricultural product. Yeast is currently listed under 205.605(a), as a non-synthetic, nonagricultural substance. At this meeting, you'll hear a joint recommendation of the Handling Committee and the Material Committee that yeast and dairy cultures are agricultural products and thus, should be listed instead on 205.606 as an agricultural product.

I commend the two committees for this recommendation and I respectfully request that the full board adopt it as well.

For several years, and I mean several years, it has been a technical legal error to classify yeast as nonagricultural. We submitted our first formal proposal to change the classification of yeast more than two years ago and I would like to add that we have also petitioned.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

The Handling Committee and Material Committee agree that this error should be corrected as part of their overall joint recommendation on defining agricultural versus Non-ag. I want to give the two committees credit for all the heard work that it took to get to the bottom of this issue. And I believe that they've come up with a sensible result. I know how much time and effort went into this. And I know how much time the committees have devoted to deal with this difficult subject and I admire their patience and fortitude.

I am speaking not only of the committee's recommendation of yeast, but the entire recommendation on agricultural versus Non-ag. When it comes to ingredients and a national list that are nonagricultural, manufacturers are free to use nonagricultural ingredients listed on the national list in their processed products. As long as they do not exceed five percent, the nonagricultural ingredients listed on the national list are always allowed. Until now, yeast has been listed as a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

nonagricultural. This is to ensure that manufacturers would always use traditional conventional yeast in the nonorganic five percent. And I'll explain a little bit further why I strongly feel that this is wrong.

Certifiers have no way to require them to use the organic yeast alternative. Changing the classification of yeast to agricultural will make a critical difference. Once an ingredient is listed on a national list as agricultural, then in order to use that ingredient in the five percent, it must be organic, unless an organic version is not commercially available. When yeast is reclassified as agricultural, the organic industry will have to supply organic yeast as a normal organic agricultural ingredient required in the five percent. And in my 15 years, almost, in the organic industry of helping providing ingredients, there needs to be this kind of motivation for ingredients to become available.

Before I leave the subject of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

yeast, I have just a word about why organic yeast is superior to conventional yeast and should be used when commercially available. Organic yeast is grown on a substrate of organically produced grains. Furthermore, the process of growing organic yeast avoids the chemicals that are used in the production of conventional yeast. And this is really important and this is why I'm here, because I feel very strong that this is something, you know, that's been -- it's an error.

You know, conventional yeast right now uses ammonia. It uses sulfuric acid. It uses caustic soda lyes. It uses synthetic vitamins and synthetic anti-foaming agents. And while the waste water from conventional yeast production must be treated and have special licenses for its disposal to avoid pollution, the waste water from the organic yeast is raw material used for further organic products.

Because of the various chemicals that have been used in producing conventional yeast, the view developed in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Europe that these chemicals were not compatible with organic farming or food processing. This is why, in 1980, a German manufacturer, Agrano, based on Riegel, Germany, began it's pioneering work to develop an organic production method for yeast. In 1995, Agrano began commercial marketing of its Bioreal, organically produced yeast. Our firm has been importing Bioreal since 2002.

I would like, as I just mentioned about how these ingredients are, I would like that this be dealt as, the technical questions that may arise, should be handled on a case-by-case on the certifier level. And I would like to conclude by thanking the Handling Committee for the other recommendations in their proposal.

(Timer sounds.)

CHAIR O'RELL: You can finish your thought, if that was a through.

MS. MARROQUIN: Well, it was a thought. It was just saying, again, I know how much went into this. It's a difficult question and I want to thank you all for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

putting the thought to it and I really hope that you can build on that thought.

CHAIR O'RELL: Thank you, Grace.
Any questions for -- Joe?

MEMBER SMILLIE: Without getting into all the politics of 605 and 606, I just wanted to understand that you have petitioned.

MS. MARROQUIN: Yes, we have, about two months ago. It took awhile because we were told, at one point, it's a technical question. You just needed to make corrections. But we have put a formal petition in, yes.

MEMBER SMILLIE: Okay. It's not on our list but I take it that that will be added. Okay.

MS. MARROQUIN: From 605(a) to put it onto 606.

CHAIR O'RELL: Valerie, do you want to address, for the record? Barbara?

MS. ROBINSON: Grace, is organic yeast being used in products here in the United States?

MS. MARROQUIN: Yes, it is.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MS. ROBINSON: Substantially?

MS. MARROQUIN: Not substantially yet, because of the way it sits on the national list, but yeast, it's being used.

MS. ROBINSON: So now it's an economic incentive?

MS. MARROQUIN: It's being used by folks when it's over five percent. And there seems to be an agreement that you can't use nonorganic yeast in cases where it goes over five percent. So it is being used. It's not being used by companies, primarily, that would use it under five percent.

MS. ROBINSON: So what's it used in?

MS. MARROQUIN: Soup bases. Right now, presently, flavors, where again, the percentage is much higher. And it's being acknowledged, recognized, and accepted that way.

MS. ROBINSON: Okay.

MS. MARROQUIN: It's an odd fellow, this yeast.

MS. ROBINSON: I know.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MS. MARROQUIN: I agree.

MS. ROBINSON: It troubles me
very much.

MS. MARROQUIN: Very puzzling.

CHAIR O'RELL: Dick, if you're --

MR. SIEGEL: Hi, Richard Siegel,
I'm counsel to Grace Marroquin. Where a
manufacturer has an incentive to try to
reach the 95 percent threshold and they can
put yeast in to get them into the 95
percent, then they're buying organic yeast.
It's the people that don't have to use more
than five percent yeast who are not being
required to use it and are using
conventional.

MS. MARROQUIN: And I'd like to
add that what it's done, for those people
that have been able to use it over five
percent, is to bring a new, it raises the
bar. So now we have organic savory flavors,
we have organic soup bases, that then are
used to make further organic products and
it's because they were able to use it that
way.

Any other questions?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

CHAIR O'RELL: I think Dan has a question and then Joe.

MEMBER GIACOMINI: Yes, Grace, like you say, yeast is a strange beast and yeast --

MS. MARROQUIN: Yeasty beast.

MR. GIACOMINI: -- yeast is not yeast. We have different substrates, different uses. What kind of yeast are you importing as organic and is the generic term yeast going to be, going to have a problem in its specificity when we deal with all the issues of DNA fingerprinting, and vintner's yeast and baker's yeast and brewer's yeast, and is and all of that that's used in livestock feed, is just a generic yeast on the list, in one place or another, going to cause problems down the road?

MS. MARROQUIN: I think that -- okay, what we're importing, to answer the first question, is we're bringing in a yeast extract paste, a yeast extract powder. We bring in active yeast and we bring in various kinds of yeast flakes, and these are also used to provide some organic vitamins.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

They're using it as a feeding medium to help create organic vitamins. And those wouldn't be available in the marketplace either if these companies weren't using yeast for those purposes.

As far as how it will affect the feed industry, I have to be honest, I'm not technically savvy enough to be able -- I don't know which ones are using right now, so I don't know if I can answer it. But I think, as far as using a generic yeast, I think once it gets into the 606 category, that still leaves companies the options that if the yeast does not perform, and this is the case with every single ingredient that sits on that agricultural classification, they have to prove why something doesn't work for them and, if they do, then they can use -- if they prove that it doesn't work for them because it doesn't meet the specific criteria, then they're allowed to use the nonorganic. So I think with -- that was the reason why we put it there so that knowing that it will not always address everybody's specific needs, so it wasn't to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

penalize anybody, it was just to put it where it ought to be. Because it's grown using organic rice, organic potato, organic wheat, and corn. So, I mean, it's all the way through. It's an organic product.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: Yes, I think my question may be more of a lead-in for Mr. Siegel than it is a question for your, Grace.

MS. MARROQUIN: Good.

MEMBER SMILLIE: And that is, I missed yeast on the report because basically, you've petitioned to remove it from 605, not add it to 606. And then asterisk says that our recommendation of moving yeast to 605 is a technical correction as part of the thing. So, perhaps you can address your political strategy on this petition, Mr. Siegel.

I presume that's --

CHAIR O'RELL: I believe it was, the petition was to remove it and to put it on 606.

MR. SIEGEL: Remove from 605 and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

--

CHAIR O'RELL: And put it on 606.

MR. SIEGEL: And put it on 606.

CHAIR O'RELL: We're looking at cryptic notes on the -- it should be clarified on our list.

MEMBER SMILLIE: Well, that's why I missed it, because I was looking for it on 606 and it's on 605.

MS. MARROQUIN: That's right. This is what we're asking for.

CHAIR O'RELL: Barbara?

MS. ROBINSON: I don't know whether this is a question or just a comment. All right. So, the stuff I buy in the grocery store to make my bread comes in a jar, it's yeast. So, we're saying this isn't agricultural. So far, that's what we've been saying. Right?

CHAIR O'RELL: By its placement on 205.605(a).

MS. ROBINSON: We've been saying its synthetic?

CHAIR O'RELL: No. Not --

MS. ROBINSON: Oh, just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

nonagricultural.

CHAIR O'RELL: Nonagricultural, because of its placement on the list.

MS. ROBINSON: Okay. We've been saying its nonagricultural but we grow it. Grace, we grow it, like we grow mushrooms?

MS. MARROQUIN: Exactly.

MS. ROBINSON: On a substrate?

MS. MARROQUIN: Yes.

MS. ROBINSON: Okay. That's all I wanted to know.

MS. MARROQUIN: That answers it all, really.

CHAIR O'RELL: Does the board have any other questions for Grace?

(No response.)

CHAIR O'RELL: If not, we're going to proceed with Dick, with your public comment, because it ties in with Grace. And then following that we're going to recess for lunch. We'll see what time that is, we'll take an hour and come back.

MS. MARROQUIN: Thank you.

CHAIR O'RELL: And then that will be Diane Goodman will be next up after

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

lunch. Just so she's aware to be here on time because we're going to try to start on time.

And there's one question. Bea?

MEMBER JAMES: No, I just wanted to thank Grace for her perseverance. Good for you.

CHAIR O'RELL: Dick?

MR. SIEGEL: Although I'm very happy to appear, at this point, my comments are not about organic yeast. They're about organic seed.

CHAIR O'RELL: Oh, well then we should go to lunch.

(Laughter.)

CHAIR O'RELL: I'm sorry, Dick. Go ahead.

MR. SIEGEL: My name is Richard Siegel. I'm an attorney in private practice in Washington and I'm pleased to come before the board. I'm representing a group of companies in the private seed industry that produce and distribute organically grown seed. And there is a list of these ten companies. They're located in various parts

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

of the country. And the list is moving around with the beginning of my statement.

As you know, under the National Organic Program, organically grown seed must be used to grow an organic crop except when a "equivalent" organic variety is "not commercially available." This requirement has three purposes.

First, it's to ensure that organic integrity starts with the seed in the ground. A second is to stimulate an organic seed market, with opportunities for organic growers to serve that market. And third and finally, this requirement can encourage seed breeders to develop organically grown varieties that are tailored to organic growing conditions and, therefore, can offer superior performance for the needs of organic growers.

Now we've had four years now under the NOP final rule and, unfortunately, organically grown seed is still the exception, rather than the rule. The seed industry, organic seed suppliers, are working all the time to have an adequate and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

representative supply. But a major stumbling block is the regulation itself because it allows growers to use conventional seed whenever they cannot find an equivalent organic variety.

Until now, it's been fairly easy for growers to meet with certifiers and convince them there's no organic variety that's equivalent. So many certifiers have been allowing growers to use conventional seed on a widespread basis and this has cut into the sales of organic varieties that are actually on the market.

So what we have is a soft market and uncertain demands for organic seed. So the industry is hesitant to move forward. So there aren't as many varieties that are going to be supplied, so there aren't as many equivalent varieties, so it's a vicious circle. And we want to stop this vicious circle as soon and as well as we can.

But I want to now go on to some good news and that is, a number of items of good news.

First, OMRI has now introduced

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

the first interactive internet database for available organic seeds. This database has just been completed. Dave DeCou of OMRI has done a great job to set it up. The companies in our group of private organic seed companies have contributed, I don't want to say seed money, but up-front financing to get this thing started so that it could, a reputable organization could start to put an organic seed database together. And it's, I've given you the web address for it. It's also, you can go to the OMRI website and follow the links to organic seed and you'll see how it works.

Until now, there's been an information gap. Growers and certifiers have just not known where to turn to a central source for what organic seed is available. And now only will this database give them that information, but it will also suggest which organic varieties that are available are equivalent to conventional varieties. So this is the connection we want to make with this database, so that certifiers will look at a list of organic

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

varieties, they'll see what they're related to and what they're able to be equivalent to in the conventional market. And that is, we hope to get over a lot of this hurdle with compliance by doing that, by putting the information out there.

We want to thank the board for its work. We thank the Crop Committee for holding on to the information requirement which we think is very very important.

And we also want to thank Mark Bradley for the interest he has shown in the database and in the future compliance. Mark's great forte is compliance and in our talks with him, we found him to very understanding and very sympathetic about what we need to fix the organic seed requirement. So I thank you very much.

(Timer sounds.)

CHAIR O'RELL: Thank you, Dick.
Any questions for Dick?

Dick, I believe there's a question Bea has.

MEMBER JAMES: I'm not sure if you're able to answer this question or not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

but what criteria, maybe OMRI would be better at answering this, what criteria is OMRI using to determine the validity of organic seed company. I mean, are they testing every one of these seeds?

MR. SIEGEL: Well the organic, every organic seed has to be from a -- every organic seed company is certified. OMRI will not list any seed unless it comes from a certified organic supplier.

Now the question of what is equivalency is still a difficult question. And the suppliers that say our organic seed is equivalent to the following varieties of conventional seed, this is, of course, a matter of judgment. It's matter of professional judgment. And it may not be the ultimate answer for every grower that's looking for an organic seed, but at least it will put the information out there and at least it will put the grower to a requirement of explaining to his certifier why a certain seed is not going to meet his needs, his or her needs.

CHAIR O'RELL: Hugh?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER KARREMAN: I think it's excellent that OMRI has that interactive website for that but I'm just thinking, in my local area, that is for farmers to look at. Right?

MR. SIEGEL: It's for everybody.

MEMBER KARREMAN: For everybody. Well, --

MR. SIEGEL: That's farmers and certifiers alike.

MEMBER KARREMAN: In my local area, people don't even use electricity. So, how would farmers in that particular, you know, area, get all this good information.

MR. SIEGEL: Well, can they come to their extension agent and ask the extension agent to show them online what's -- I mean, certainly they can go to a public or USDA office that has a computer for them.

MEMBER KARREMAN: Okay.

CHAIR O'RELL: Okay. Thank you, Dick.

MR. SIEGEL: Thank you.

CHAIR O'RELL: We are going to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

recess for lunch. And I'm asking board members to be back at 1:15. And we will begin to pick up public comment at 1:15. Diane Goodman will be first up.

Thank you.

(Whereupon at 12:10 p.m. a luncheon recess was taken.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

1:36 p.m.

CHAIR O'RELL: We have, the Program is with us, so we are going to continue with the public comment session. First up will be Diane Goodman, followed by Sean Taylor. Diane, do you have a proxy?

MS. GOODMAN: Yes, I do.

CHAIR O'RELL: A written proxy?

MS. GOODMAN: Yes.

CHAIR O'RELL: Thank you. So, ten minutes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

MS. GOODMAN: And yes, I also have for you folks to read along -- start counting in a minute.

CHAIR O'RELL: We won't start until you are properly positioned.

MS. GOODMAN: Thank you. Okay. Oh, I have a lot more for you here, wait a minute. Great.

Hi. I'm Diane Goodman. I'm a consultant to the organic industry and I'm here to speak on behalf of the Hain Celestial Group.

Thank you very much to the National Organic Program and to the National Organic Standards Board for the Opportunity to comment on the recommendations of the committees of the board to be presented at this meeting. Hain Celestial Group, Incorporated extends appreciation and thanks to all members of the NOSB and NOP staff for the diligence and time and energy that was necessary to develop these recommendations. Our comments address the Joint Materials and Handling Committee recommendation for agricultural/non-agricultural determinations

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

and the Handling Committee recommendation for commercial availability criteria.

What you have in front of you, by the way, the first section is the comment itself and the second is your recommendation in the format in which you wrote it for establishing commercial availability with edits that we have made to it, so that you could actually cut and paste if you found any of them valuable and informative. You'll find our comments in bold italics. Unfortunately, I didn't make enough color copies because of the expense. So the bold italics will be the changes, the additions and the deletions.

Okay. For the Joint Materials and Handling Committee recommendation for Ag/Non-Ag determinations, we support recommendation number one to change the current definition of agricultural substance and believe it will help eliminate inconsistencies. While we understand the need to clarify this distinction, our interpretation of recommendations two and three, leads to further confusion and some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

questions. We appreciate the Joint Committee's acknowledgment of the decision tree, that it is a working document and may still need further revision.

In that spirit, we pose the following questions. Since it has been determined that yeast is a microorganism which would imply other microorganisms as well, is justified as an agricultural substance, since it fits the definition of livestock, how will such substances need to comply with livestock standards?

The decision tree, as proposed, includes criteria which is also included as the yet undetermined clarification for the definition of synthetic/non-synthetic. When a board recommendation is put forward to address synthetic/non-synthetic definitions, how then can the decision tree be crafted to be flexible enough to adapt to a new definition of chemical change?

How will the decision tree determine agricultural substances that have been manufactured with nonagricultural substances, consistent with the national

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

list? Agriculturally derived flavors and colors, for example, that will eventually become ingredients in finished organic products. This is questions to help you see the impact that we see in the definition of Ag/Non-Ag, as it's written.

We also question the Joint Committee's example of yeast and dairy cultures as qualified to move from 605 to 606, based on the new classification as Ag substances, without also considering other 605(a) substances, such as lactic acid, citric acid, some vitamins, flavors, enzymes, and will they have to be petitioned to be moved or can they be included in this recommendation as well?

The implications of recommendations two and three have far reaching effect and we're concerned about a broad reclassification of many substances currently allowed under 605(a). At the same time, the movement of only yeast and dairy cultures creates an uncertain precedent for other agricultural substances now considered non-synthetic.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Placing these substances on 606, while raising the bar to prove commercial unavailability of organic forms of those substances, places their current use in a precarious vulnerability, considering that the board and NOP have not agreed upon criteria to evaluate 606 petitions at this time, and that there is a court order that will result in noncompliance by manufacturers using those nonagricultural substances that are not on 606 come June of 2007.

Okay. The Handling Committee recommendation for commercial availability criteria. The Hain Celestial Group truly appreciates the detail and thoughtfulness that went into this recommendation, as well as the need for urgency to meet the court ordered date, by which time the industry must comply with new regulations. We encourage the department to explore all the possibilities with respect to the court order compliance deadline. Without NOP approval of recommendations for the definition of Ag/Non-ag and synthetic/non-

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

synthetic, it may be difficult to implement this criteria and result in unforeseen expensive revisions later. I'll repeat this that we encourage the department to explore all the possibilities with respect to the court order compliance deadline.

That said, here are a few specific comments to the recommendation and, as an attachment, the actual text of the recommendation with changes in italics reflecting these suggestions.

Section A, revise procedures for petitioning materials onto 606. We suggest including the requirement that the petitioner substantiate that the substance is, in fact, agricultural, according to the pending clarification or the final determination of the clarification of Ag/Non-ag. We also suggested information needed to assist in the determination of commercial availability be removed from this section, as it is the responsibility of the certifier to make that determination, based on information provided by the operation to the certifier, rather than the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

responsibility of the petitioner to justify this to the NOSB. Instead, we believe it would be appropriate for the specified current industry information to be included in Section C.

Now Section B. The NOSB and the NOP role in the review of petitions. We agree that the role of the NOSB is to consider the petitioner's claims and reasons why the materials should be permitted in the production or handling of an organic product. We would also like the role of the NOSB to include conferring with NOP for the publication of procedures and guidance for certifiers in making commercial availability determinations. We would like emphasis in this section that the determination of commercial availability of organic forms of petitioned substances be the sole responsibility of the ACAs.

Now for Section C, the ACA's role. We agree with the recommendations listed and offer the suggestion to move the criteria originally listed in Section A to this list, with the caveat that this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

information may include but not be limited to any of the sources listed. We also ask the board to consider an evaluation of the effort of the petitioner to demonstrate due diligence to contract for future organic production of a substance that is not commercially available in organic form.

Finally, we would like to comment on the fast approaching date by which the organic industry must be in compliance with the court order in the Harvey v. Johanns lawsuit of June 2007, less than a year away.

Understanding the obstacles facing the NOSB in finalizing recommendations, the approval of recommendations, the adoption of resulting policy and procedures by the industry and certifiers, we urge the NOSB and NOP to consider the amended provision passed in November, allowing the Secretary to develop emergency petitions, expedited petitions, excuse me, for commercially unavailable Ag products. This would allow the board, the department and the industry the time necessary to complete the work of policy

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

making that will enable smooth transition to the new requirements for 606.

The year allowed by the court has not proved to be enough time and is placing a difficult burden on the current stream of commerce. We're all aware that emergency procedures exist for producers and handlers who experience all manner of unanticipated events and would incur huge losses if windows of relief were not available. In cases of emergencies, disasters, or shortages, emergency permits are often obtained rather quickly. Such procedures are necessary to support business and to feed families on both ends of the chain of organic commerce.

In conclusion, we urge the NOSB to recommend and develop emergency procedures, allowing speedy temporary allowances for commercial unavailable substances to be placed on 606.

The Hain Celestial Group thanks the board for its consideration of our comments and supports you in all of your good work.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

CHAIR O'RELL: Thank you, Diane.

Andrea?

MEMBER CAROE: In regards to your recommendation on Section A, Diane, you are suggesting that we don't consider any historic shortages or potential shortages of an agricultural material before listing it on 606. So, are you suggesting that the only criteria this board would use, in order to recommend that a material be listed on 606 is whether it's agricultural or not?

MS. GOODMAN: No, not exactly. Because in the petition justification section, Section 12, there could very well be the requirement that people justify that as part of the reason they believe the petition should be approved.

I don't think that we can necessarily exclude, we don't necessarily need to exclude all commercial availability history or projections but I believe that it is not the role of the NOSB to approve the petitions based on that determination. So, if there was a way of keeping, in a petition justification statement, you can talk about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

the fact that the presence or absence of that product has, historically, been available organically, or not available organically, or available in a particular form. And it can be part of the justification statement. But as far as requirements being itemized of what should be included in the petition, as fodder for commercial availability determination, I think it needs to be clarified and separated out.

MEMBER CAROE: I guess I'm not --
I don't --

MS. GOODMAN: I understand your question.

MEMBER CAROE: -- track with what you're saying because, you know, we have to have a transparent criteria --

MS. GOODMAN: Right.

MEMBER CAROE: -- for how we're evaluating and this was one of the criteria that we were looking at. You know, is it reasonable that this may not be in supply in organic and, potentially, should be considered by a certifier under an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

applicant's claim that it's not available. So, by making it part of the justification, just makes it, you know, information that isn't part of the criteria. I'm not quite sure what the purpose of that would be.

MS. GOODMAN: Well, maybe there's a way of taking the questions that were proposed in this question in Section A and I proposed to move to Section C. If there was a way of filtering them, perhaps, some that would be more appropriate and perhaps less of a burden, or give people a framework, because to actually specify how you have to prove commercial availability, I think is something that goes beyond the scope of a petition's requirement.

Am I not making sense to you?

MEMBER CAROE: Well, I just, that wasn't the intention of the recommendation. The recommendation was that the NOSB would look at these materials in a broad scope of potential shortages and past history but that the on-the-ground justification would happen with the certifier in real time. We never intended to do the work of a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

certifier. In fact, I thought we were pretty clear in our recommendation to split those out. This is just looking at it, overall classification, is this a, you know, do a risk assessment, basically, of this material, as opposed to actually doing that detail level work that the certifier is expected to do.

CHAIR O'RELL: Julie?

MEMBER WEISMAN: Yes, there's another really important reason for that to stay in A. There is an important information collecting function that gets served by having that be submitted as part of the petition, which helps ensure that this is a -- it makes that a matter of public matter. And we've been hearing, you know, many many comments which emphasize the fact that unlike what is currently started by OMRI for seeds, there is no database and we don't really know where that database is going to be. So it's very helpful if this is part of the public record that's maintained, these petitions, you know, people have access to that, and that will be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

very helpful in encouraging the development of new organic ingredients.

MS. GOODMAN: I think that that would probably be a workable solution, as long as it is very clear that it is not the NOSB that's making the determination about - - that's much more of our concern, that the NOSB is not making that determination about commercial availability. But I do support the concept of having it as historical public information. That's why it would be put into, that would be, whatever it is the petitioner would want to use that way, would be included in their petition justification statement.

CHAIR O'RELL: Thank you, Diane.

MS. GOODMAN: Thank you.

CHAIR O'RELL: Bea, just before I call the next speak up, I just wanted to, for the record, recognize that Rigo as joined us and made his travels through from wind and rain, I guess.

MEMBER DELGADO: That's correct, Mr. Chairman. I appreciate the recognition and I appreciate your patience as well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: No problem. Thank you, Rigo. Sean Taylor and Gwendolyn would be, is up next.

MR. TAYLOR: My name is Sean Taylor. I'm the Scientific Director for the International Association of Color Manufacturers. On behalf of the International Association of Color Manufacturers, I would like to briefly discuss our thoughts concerning the situation created by not renewing colors non-synthetic sources onto the national list under section 205.605(a).

IACM, International Association of Color Manufacturers, is a trade association that represents the manufacturers and end users of food colors. Our members have strong working relationships with companies involved in the production of organic or made with organic foods. We submit these comments with the request that the NOSB consider a conditional renewal of colors non-synthetic sources only.

In our understanding of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

current situation, colors were initially placed on the national list at the discretion of the National Organic Program and without a recommendation by the NOSB. Because of this, the NOSB Handling Committee has recommended that colors be removed from the national list and that food colors that will be added must go through the standard petition process.

The members of IACM, as well as other companies involved in food color production, are pleased to have the opportunity to file petitions to the NOSB for the addition of individual food colors to the national list. We feel strongly that this remedy process will bring the listing of colors in line with other food additives that can be used in organic and made with organic products. However, we are concerned that there are impediments to this remedy process that will cause unnecessary delays that are harmful to both the food color and the organic industry.

First, the current situation prevents a timely review of petitions filed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

for addition of individual food colors. As a result of ongoing litigation, critical distinctions that are especially relevant to the consideration of food color petitions have not been addressed and we feel that this has left the NOP and the NOSB without a proper mechanism to consider our petitions. Specifically, the adoption of final recommendations and decision trees for determinations of synthetic versus non-synthetic substances and the thorough consideration of the role of solvents used in food color production as food contact substances have been delayed.

Much of the food color industry has one foot in chemistry and another in agriculture. And without explicit definitions of and distinctions between synthetic, non-synthetic, nonagricultural, chemical change, chemical form and other terms, we believe that our petitions cannot be fully and fairly evaluated. Factoring in the amount of time for rule making, we believe that no food colors can be added to the national list prior to the sunset date.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Second, the renewal of colors without the addition of individual food colors, will have a strongly negative impact on the food color and organic foods production industries. Without a sufficient petition evaluation process for individual colors, the food color industry will be harmed through the loss of sales, as organic consumer products companies will be forced to remove these colors from their products. We strongly believe that this will have a deleterious effect on the sale of organic and made with organic products and a serious financial impact on organic foods companies due to re-labeling requirements and necessary reformulations.

On a personal level, as a consumer of organic products, I feel strongly that the NOSB and the NOP should support the organic industry, and has supported the organic industry, and I believe that any actions that would have the potential to reduce consumer interest in and loyalty to organic products is against the best interests of the organic movement.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Third, we believe there is a precedent for conditional listing materials to a positive list. For example, the procedure for provisional listing of food colors was outlined by the Food and Drug Administration in the Color Additives Amendment in 1960. This allowed food colors that were already in commerce to remain in commerce while safety testing was planned and conducted. Colors that were not adequately tested by a certain time or that were found to be potentially harmful, were then de-listed and not allowed for use in foods. This is a procedural example of the regulatory process making necessary allowances to prevent the disruption of commerce while issues related to that process are decided and it indicates a clear precedent for the temporary listing of materials for use in foods.

Based on these arguments, we request that the NOSB continue the deferral of the vote to renew or not renew colors non-synthetic sources only until the next official meeting in Spring 2007. We ask

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

that the NOSB provide us with 30 days in which to file a petition for an annotation that would provide a conditional one year extension to the scheduled sunset date. This extension would provide the NOP with the necessary time to develop the proper clarifications essential to a thorough evaluation of food color petitions.

The conditional extension petition will further detail the arguments briefly described here and will provide the NOSB with further opportunity to consider the difficulty we face in filing petitions for individual colors, given the current lack of clear guidelines.

Our organization would like to thank the entire NOSB, the Handling and Materials Committees, and the NOP staff for their ongoing and future guidance to manufacturers of food coloring substances in the petitioning process. We strongly believe that the eventual successful petitioning of our colors will provide organic and made with organic producers with affordable, safe, and attractive options for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

adding color to their products and we look forward to working with the NOP staff and the NOSB throughout the petitioning process.

Thank you.

CHAIR O'RELL: Thank you, Sean.

Any questions? Julie?

MEMBER WEISMAN: Yes, I actually do have a question with regard to this issue of I don't believe right now we're in a position to defer for a year because sunset officially, I think, the sunset period is October 22nd, like it's coming up the beginning of next week. And I don't know is the --

MR. TAYLOR: I'm sorry. This is October 22, 2007. So one year from now.

MEMBER WEISMAN: Right. Okay. So beyond that, -- okay, I see what you're saying.

But in terms of extending beyond that, I think that OFPA is pretty, I think that the statute is very clear about five years. It cannot be extended. You can't have like a one year extension to the sunset, I don't believe.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MR. TAYLOR: I think our position is two-fold. One is for now, what we're actually requesting is a deferral at this meeting, specifically, that you don't consider this recommendation until the next meeting. That will give us time, this 30 days that we're asking to fill a petition, to request an annotation that will go into more detail concerning that issue.

I think secondly, we feel that there is precedent for this sort of temporary conditional listing of food additives onto a list while issues are worked out, essentially.

CHAIR O'RELL: Sean, I guess I'm trying to understand what the deferral to the next meeting would accomplish because we still have the door closing on October 2007. So, what will that buy time for?

MR. TAYLOR: What we, our feeling at the moment is that this will give us time to fill out a full petition requesting an annotation for a one year conditional listing.

MEMBER WEISMAN: You know what?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

I think I can clarify something. I think that the decision not to renew colors at sunset doesn't mean, correct me if I'm wrong, someone, that it's off the list. It means that we will allow it to sunset.

CHAIR O'RELL: It will sunset in October --

MEMBER WEISMAN: It will sunset. In other words, the use of --

CHAIR O'RELL: -- 2007.

MEMBER WEISMAN: -- the use of the colors on 605(a) will cease as of October of 2007. So there is still, you do have that time.

MR. TAYLOR: Essentially, one year is what we have.

CHAIR O'RELL: Yes.

MEMBER WEISMAN: Exactly.

MR. TAYLOR: What we are arguing, at this point, is we don't believe that one year is sufficient time to allow a petition to be considered fairly, to be evaluated by the NOSB and then to actually go through the rule making process and to be added to the national list.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: And we certainly sympathize with that because we find ourselves in the dilemma of the process of trying to get through this list of petitions for 606, which I know a large extent of those are colors. There's 34, 35 on the list. Those materials will have to be dealt with prior to the sunset or there will be issues. In the sunset process, it is our understanding is, we have been back and forth with the Program, is that we don't have the authority under the sunset review to add annotations or to put an additional - - it's either on the list for another five years, or it's not. We don't have that authority. And maybe if the Program wants to clarify that?

MEMBER CAROE: The definition of sunset is the reconsideration of a regulation for its continuance. So, as is written in the regulation, will it continue or will it not? That's it. There's no new regulation writing that shows up in there. So, conditional listing or listing with an annotation is not an option for sunset.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

However, at any time, we can entertain new petitions.

CHAIR O'RELL: Right.

MEMBER WEISMAN: But that is a different process. It can't be --- you know, I know there's been some frustration through this sunset process that we haven't been able to, you know, correct things that we would like a little bit differently or would be a little more clear but, just based on the function of what sunset is, that's not a possibility. That's out of the realm of this activity.

CHAIR O'RELL: I'd like to recognize Arthur Neal. Are you coming up to address this issue?

MR. NEAL: Arthur Neal, National Organic Program.

You mentioned sunset being used to address this particular issue. And if I'm not mistaken, at the last meeting in Pennsylvania, the reason why, or one of the reasons you deferred was to allow someone to petition the board to review colors.

CHAIR O'RELL: Right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MR. NEAL: No one did that. So, you're just going ahead and you're closing out the sunset process so that nothing is lingering and we can go ahead and move forward with finalizing the sunset proposed rule.

There's still an open window for individuals, companies, whomever, to petition the National Organic Standards Board to review colors for inclusion on a national list. That window has not been closed.

So, the sunset process, based on this meeting, will officially probably be closed based on your determinations and recommendations here today. The issue with colors lies in the fact that there was not a board recommendation. So, you are provided that opportunity to petition. No one took you up on that before this meeting, so you're just taking final action. That's the way we see it.

MR. TAYLOR: And just to stress again, essentially what we're asking for is for you to defer on that action, at this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

time. So, thank you.

CHAIR O'RELL: Nancy?

MEMBER OSTIGUY: Can I ask why there was no action taken after our last board meeting?

MR. TAYLOR: Actually, since the last board meeting, there have been, at least to the best of my knowledge, one of our members has filed six petitions for individual colors to be listed onto the national list. I don't think that I'm really capable or qualified to comment on specific issues related to those petitions. I think that probably should be taken up by the National Organic Program, at this point.

MEMBER OSTIGUY: I'm not asking about the specific petitions. I'm asking about what you're asking for right now.

MR. TAYLOR: Well, at this point, I think that, since the last board meeting, this is what we've been working on. We've been working on individual petitions. We've come to the conclusion that we actually can't file solid petitions that we feel will make it through the process because there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

aren't really specific determinations about what is a synthetic substance, what is a non-synthetic substance, what is an agricultural product, what is a non-agricultural product, what is the definition of chemical change, what is the definition of chemical form, what is the definition of functional property. And as we began to try to work through these proposed decision trees, we found ourselves in a situation where we didn't really know where or petitions would be evaluated, whether we should try to put them on 606 or 605(a) and how we would proceed from there.

Does that answer your question?

MEMBER OSTIGUY: Yes and no, but that's okay.

MR. TAYLOR: Well, and I guess just maybe to follow up then, where that's left us with is we don't feel that we have sufficient time for our individual petitions to be considered and added to the national list without a significant break in the flow of commerce and that leaves in the position where we feel that separate action needs to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

be taken.

CHAIR O'RELL: Andrea will follow-up.

MEMBER CAROE: Just one more comment to try to wrap this up. But one, if we defer and this board makes no determination before sunset, it will sunset. If there is no action by this board, we'll take it off the list. So, deferring does you nothing. So, I would caution you to that.

And one of the things we said when we deferred is we have no information on these materials. We cannot evaluate them for continuance. So, until those petitions arrive, our decision can't change, we can't finish our process without those petitions. So, I see no merit whatsoever in deferring. I mean, the fact that of the matter is is that we can't evaluate without that information. So, we urge the manufacturers of these colors to come out and put those petitions in front of us and that we would do our due diligence to get those reviewed as quickly as we possibly can and get them

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

in a recommendation to be listed if they were appropriate. That's the best that this board can do. If we defer, we do nothing for you.

MR. TAYLOR: Well again, just, I ask that you consider the deferral and thank you for your time.

CHAIR O'RELL: Okay. Thank you, Sean. Gwendolyn? Following will be Lynn Coody.

MS. WYARD: Good afternoon. My name is Gwendolyn Wyard. I am the Processing Program Reviewer at Oregon Tilth. Good afternoon to the NOP staff and ladies and gentlemen of the gallery, NOSB members.

First and foremost, Oregon Tilth would like to thank the NOSB for your continued efforts on the complicated topic of agricultural versus non-agricultural determinations. This is a topic that has personally provided me with endless hours of mental gymnastics.

To begin, I would like to generally say that we do not support the retention of food ingredients on 205.605

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

that can be produced organically to the NOP standards. Therefore, I would really like to see yeast reclassified as agricultural so that it may be removed from the 605 shield which protects substances from the commercial availability requirements. And I single out yeast because, to the best of my knowledge, yeast is the only microorganism that I know of that's on the market as organic. Certainly products of microorganisms, but a microorganism per se. However, Oregon Tilth has concerns about the approach we're taking to get there and the implications that the three recommendations may have on various sectors of the industry.

Our major concerns are as follows. What standards should certifiers evaluate yeast, dairy cultures and other microorganisms to? If they're deemed agricultural because they are livestock, they meet the definition of livestock, one would assume that we would use the livestock standards. I'm very familiar with the production of the yeast and other microorganisms and I do not think the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

livestock standards are appropriate logic and experience would tell me to go to the processing standards, yet they're defined as livestock. So, this is something that needs to be very clear so certifiers can proceed.

Concern number two, classification of yeast and bacteria as agricultural could have a huge impact on the livestock sector. Unlike its listing on 205.606 where commercial availability would apply, if we call yeast agricultural, then organic yeast would have to be used when fed to livestock. Agricultural must be organic.

Concern number three, this has been brought up a couple times today, so I'll move quickly through it. But we're concerned about the technical move. We feel that there should be a petition process that the criteria, the petition criteria that we're voting on during this meeting for petitioning substances onto 606, that yeast, dairy cultures and any other substance that's taken off of 605 would need to be petitioned and that procedure followed.

And then of course, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

inconsistency, according to the proposed definition and decision tree, microorganisms, enzymes, malic acid, L-malic acid, citric acid, lactic acid, these are all either microorganisms or products thereof and they should also be moved. So, if you take two, then you should take the rest, otherwise, our efforts for consistency have left us with even more inconsistency.

And finally, I've passed around a decision tree. I submitted comments by October 6th and I mentioned that I would bring in some examples of further development that I took a crack at. There are two, they are identical. One has plants, animals and fungi, the other says plants, animals and microorganisms. And I just want to highlight a couple changes that I made. I broke out the boxes. I have a box that says, is the substance in question derived from plant or animal? Now, I have broken out a separate box that says is the substance in question derived from microorganisms in one, the other says derived from fungi. The important part of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

this box goes on to say grown on substrate produced from plants and animals.

I think this gets to the heart of the matter. We're considering yeast as agricultural not because view them as livestock, but because they have a history of use in food and their production relies primarily on agricultural ingredients, the kind of agricultural ingredients that we recognize as agricultural, corn, molasses, wheat, etcetera. Accordingly, by virtue of their agricultural content, their organic agricultural content, they become eligible for certification and this is why Grace keeps coming to these meetings.

So I ask, is it necessary to classify yeast or other microorganisms as livestock, rather than viewing them as agricultural products, with emphasis on the word products, that need to be petitioned and evaluated one by one to 205.606? And in this evaluation, a great question to constantly keep asking yourself is, can it be produced organically? Because it has been the working thought of OFPA and the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

current rule, that if it can be produced organically, then it is agricultural.

So, once again, I'd like to thank you for your ongoing work and your commitment to the organic industry and hearing me out today.

Any questions?

CHAIR O'RELL: Gwendolyn, before questions, just a comment. I appreciate the information and appreciate what you're telling us to the board, but most particularly the fact that you've submitted some --

(Whereupon the Radisson Hotel audio system shut off for approximately 58 seconds.)

CHAIR O'RELL: -- for the public concern for what a recommendation should be on the board. And thank you for that.

MEMBER SMILLIE: I'm not going to let you go without explaining. And again, thanks for this work. It's great. You've been very helpful to the Committee and continue to be so.

I'm sorry. Can you hear me now?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: No, we need to wait until. It's okay now? It seems to be? Okay.

MEMBER SMILLIE: Will you just take a couple minutes and walk us through?

The first question is why two diagrams? I'm looking really quickly and I can't see the difference in the charts between the fungi and the microorganisms.

MS. WYARD: Right. If you were to change the definition of nonagricultural and change it so that you would retain the example of mineral or bacterial culture. So, one is an approach saying let's just deal with fungi right now and not extend it on to all microorganisms. Let's just take it one at a time and we've got an existing rule that says bacterial cultures are nonagricultural, let's go with fungi grown on agricultural substrate.

Minor differences. The other just says, let's go for it, all microorganisms.

Did you want any more walking through?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER SMILLIE: Just one question. Where does *Aspergillus oryzae*, where would you, how would you walk this one, how would you, where would you start it walking to? Because we've got a petition for koji mold on our docket --

MS. WYARD: Right.

MEMBER SMILLIE: -- that we will have to consider.

MS. WYARD: Right. Well, it would be a product of a microorganism, derived from. So that would be agricultural. If it goes on then to meet the rest of the criteria, the chemical change. And then I've also added a couple boxes because the question is, if any other ingredients have been added to the substance in question. And where that might be a typical material review process for certifiers to look at those other ingredients, I don't think that's always happening and, if you have a decision tree out there, some certifiers may just take that at blank value and not go on to ask additional questions as to other carriers and preservatives that might be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

added to the substance afterwards.

MEMBER SMILLIE: So box five has been added to see if those materials would be on 605(a)?

MS. WYARD: Exactly. Exactly. Or 606, if that product is going into an organic product. If you have an agricultural that an agricultural carrier has been added to, then it would need to go on 606.

MEMBER SMILLIE: Thank you.

CHAIR O'RELL: Dan?

MEMBER GIACOMINI: Hi, Gwen.

MS. WYARD: Hi.

MEMBER GIACOMINI: I've been part of the discussions among our groups on, with the same concern, on the feed additive side. How, and I guess more of a clarification question, how do you, as a certifier, look at something being on the list as yeast when yeast is not yeast and there's a dozen different kinds? Would you look at it as just a generic single thing or how specific would you look at commercial availability issue, as far as different types of yeast?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MS. WYARD: Well, the annotation for yeast goes on to list out yeast tolosate, nutritional yeast, baker's yeast, brewer's yeast. So there is more specificity than just general classification. So and my understanding is that yeast, as well as that annotation, including the cannot be grown on petrochemicals, and that whole thing would be moved to 606.

MEMBER SMILLIE: And you don't think that would be enough of an annotation to allow for the traditional, the commonly used yeast additive, feed additives that are in the feed industry now?

MS. WYARD: Do differentiate between?

MEMBER SMILLIE: Yes.

MS. WYARD: It could be. And that falls out of my area of expertise in that I don't do any livestock work. So, looking at those particular, the yeast additives, I'm not really familiar. I haven't done that analysis.

CHAIR O'RELL: Gwendolyn, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

have two charts and one of them just carves out the fungi. And believe me, as a committee, we wrestled with this, because that seemed like to be the easy choice to go. And the other one is the full-blown microorganisms. In your mind and thinking, what rationale would you have for drawing that line there?

MS. WYARD: I don't know that I can come up with one, but I'm looking. Because I think it --

CHAIR O'RELL: Because we tried.

MS. WYARD: -- would simplify.

CHAIR O'RELL: We tried very hard and that's --

MS. WYARD: No, I find that if you bring yeast in, then you bring the rest in, because the next, pardon me, but the next Grace will show up wanting to put microorganism. It's just, it's going to go that way because will be able to --

CHAIR O'RELL: You were listening in to our committee conversations, then because that's very much where we were at.

MS. WYARD: Right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: Thank you.

MEMBER CAROE: Just one other.

Gwendolyn, as you look at this, if your first concern is what would be the standard for these microorganisms to be certified as organic, if we continued with the recommendation, maybe not at this meeting, but say this recommendation passed and we had Ag versus Non-ag settled and the line was drawn between, you know, basically things with DNA and things without DNA; however, if we included in our recommendation language that would suggest that these microorganisms wouldn't or a classification of microorganisms may not be available until such time that there are requirements within the rule that play that out, give the requirements for, you know, livestock handling and now microorganism production, would that be a solution that may work for us? That we can draw that line but basically put in an exemption until such time as we've classified or clearly laid out the requirements for organic microorganism?

MS. WYARD: Right. Because Emily

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

will be done with the Pet Food Task Force --

(Laughter.)

MS. WYARD: -- and we'll put her on the Microorganism Task Force and we'll go from there.

And I think so. I think that the lack of standards, lack of information is a huge part of what we fear, how to go forward. If you could say, you know, if you bring them in saying it meets the definition of livestock so it's agricultural, yet, since it's a processed product being labeled according to the composition standards of 301, that, make that leap. You know, forget the livestock standards and go right to your handling, organic handling requirements.

If you could work that in there, that would be fine. Personally, I'm comfortable with certifying yeast to 301(b). I think it can be done. I have no idea how to do it to the livestock standards.

MEMBER CAROE: Right. I mean, I think that clarification. I think what I'm hearing for the last week from folks is that there is a level of discomfort with not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

knowing that part of that, as we look at this part of it.

MS. WYARD: Right.

MEMBER CAROE: So, I'm just wondering if there's a way we can proceed, get past Ag versus Non-ag so we can deal with 606 and, at the same time, put something in place that allows us to deal with the rest of this issue at a later date. And just kind of, it's spinning plates. You know, we've got a lot of them in the air and we can't let anything crash. So, I'm just -
- okay.

Thank you.

MS. WYARD: Thank you.

CHAIR O'RELL: Thank you.

Lynn? And next is Katherine DiMatteo.

MS. COODY: Kevin, I have a proxy from Leanna Hoods, which is written on your list there. She's a little bit further down than I was.

CHAIR O'RELL: Okay.

MS. COODY: Okay?

CHAIR O'RELL: So we'll be taking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

her off and you have her proxy?

MS. COODY: Yes, that's exactly right.

CHAIR O'RELL: Thank you.

MS. COODY: Hi everyone. I'm Lynn Coody. My company name is Organic Ag Systems Consulting from Eugene, Oregon. And I specialize in issues that are related to certification and accreditation.

Today I'm presenting testimony from the Organic Producers Wholesalers Coalition, who asked me to help them write and deliver their comments to you, since they're really busy selling produce at home. So, these comments are from them today.

I did submit my comments earlier, and they're posted on your website. So, I hope you can refer to those, as I'm going along, if you'd like to. I'm presenting a shortened version today.

The Organic Produce Wholesalers Coalition is comprised of 11 businesses that distribute fresh organic produce to retail stores, restaurants and other customers located across the United States and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

internationally. Many of our businesses were early participants in the organic community and we have continued to play an active role in shaping the infrastructure of the organic industry. Our combined for sales last year were \$357 million and this year, we estimate a 21 percent increase to \$434 million.

In the course of our daily work, we receive certificates generated by many NOP accredited certifiers, both domestic and international. These certificates are essential to other businesses because we use them to verify the organic claims of the products we purchase and later represent as organic to our customers.

In our sector of the organic market, fresh produce, crops must be harvested within a very short time frame, shelf life is measured in days. As a result, we are keenly aware of the importance of having reliable and comprehensive information on certificates. Information that is unclear, incomplete or difficult to read, may mean the difference

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

between our ability to move a farmer's product into the wholesale market or having it rot in a field, warehouse, or port. In this comment, I will be presenting the reasons for the Organic Produce Wholesalers support of the Compliance Accreditation and Certification Committee's recent recommendations on expiration dates on certificates of organic operation and on standardized certificates.

So, first I'll address the expiration date issue. Prior to the implementation of the National Organic Program, the certificates used by the U.S. organic certifiers, routinely contained an expiration date. That was used to determine whether an operation's certification was current. However, once certification agents were required to comply with the provisions of the NOP, expiration dates on certificates were no longer permitted. Instead, recognizing the practical need for some indication of the current certification status, certifiers used procedures such as dating the signature on the certificate,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

including the date of an operation's last inspection, or issuing dated letters of compliance. In effect, implementation of the NOP transformed a system that was elegantly functional with regard to representing the date of expiration on a certificate into one in which this information had to be represented indirectly, in order for certification agents to comply with the NOP regulations.

The Organic Produce Wholesalers Coalition asked the NOP to support the CAC Committee's recommendation to require certification agents to include an indication of current certification status. Specifically, we ask that the NOP regulation require certificates of organic certification to display the date of initial certification for new applicant's certification or the date of continuing certification for operations that have renewed their certification. So that's their recommendation on that.

So, I'll move on to standardized certificates. Every day, the people who

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

staff our businesses receive certificates that have a confounding diversity in their formats and the types of information they contain. It is commonplace to receive copies of certificates that have variable formats, print too small to read after being blurred by a fax machine, and text written in a variety of languages. As these certificates are crucially important to us, we must devote valuable time and effort to decipher their contents.

To further complicate matters, when our buyers must contend with certificates that contain inadequate information to provide certainty that the product is legitimately certified organic, we are left with no option but to contact the certifier of record to determine whether the operations certificate is still valid. Unfortunately, the process of contacting the appropriate certification staffer, waiting for them to find time to research the matter, and finally receiving the needed information, can easily take longer than the shelf life of the fresh produce that passes

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

through our warehouses and shipping systems.
This is a really practical concern.

We ask that the following items should be added to the NOP's requirements for the contents of certificates and the CAC's recommendations. Certificates indicating compliance with the NOP should, and these are, this is specifically what they're asking for, one, be written in English or, if written in another language, contain an English translation of their contents; include the certifier's official seal, because they've had trouble with falsification of certificates in the industry; be designed for readability, especially when faxed or scanned into a computer, and by that they mean no small or complicated fonts. These are really specific. For producers and processors contain a clear and complete listing of the individual products covered by the certificate; for handlers other processors, contain categorical listings that describe the type or range of the products they trade; and finally, the certificate should

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

include complete information about the facilities used in the certifications. So, for example, for farms, a list of the certified fields associated with the addresses of the relevant farm or ranch, or for handlers, the addresses of all facilities covered by the certification. In other words, not just the legal address of where they're located.

Okay. And the last thing that these folks would like to comment on is making certification information available. To further support the need for accurate and complete information about the certification status of operations supplying product in the organic marketplace, we asked the NOSB to advocate for implementation of a notification system that would make such information easily accessible to the public because these folks are members of the public in their daily trade.

Currently, the NOP regulation requires each accredited certifier to provide information about certification status of the parties it certifies but, in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

our experience, the information is not sufficiently current to allow its use as a tool for verifying the certification status of products as they move through the marketplace.

As mentioned in the CAC's recent document, NOP's effort to develop a publicly accessible database has been unavoidably delayed. In place of the planned NOP managed database, we suggest that the NOP require each accredited certifier as well as parties authorized to issue certificates of compliance with NOP standards under recognition agreements with foreign governments, to maintain a publicly accessible website containing its list of certified operations. In addition, we ask the NOSB to advocate for a system that requires accredited certifiers to update these lists frequently enough to allow their use in real time to verify operators certification claims. We believe the availability of such information will not only assist sellers and buyers of organic products, but also be useful to the NOP in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

carrying out compliance actions.

The Organic Producers Coalition appreciates the opportunity to comment on the recommendations of the NOSB. Please feel free to contact us if you would like any additional information on the points raised in these comments. And then there's a list of the 11 members of the coalition that have contributed to the comments.

Thank you very much for listening to the comments.

CHAIR O'RELL: Thank you, Lynn.
Joe?

MEMBER SMILLIE: Lynn, on recommendation number five, crops or products certified, I'd love to get your group's input as to how much detail do we go into with crops? Do we want to go as far down as like varieties of broccoli, do we want to go as high as Cruciferae? Where do your people think, how much detail do they want to be subjected to to put on their certificates when they're shipping?

MS. COODY: Yes.

MEMBER SMILLIE: How much detail

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

do they want for those products that they've got to deliver to retailers?

MS. COODY: Well that's a really critical question and we've spent quite a bit of time talking about that, amongst the people who are participating in this coalition.

The bottom line was that they felt like they needed enough information to make sure that what's in the box is really coming from that farm. So, for example, for split operations, practically, they need more information than they need from a totally organic operation. So, we feel like the idea that the old IFOAM idea of visual distinctness of whether a product can be visually discerned to be different than anything else on the farm, could be one way to make that cut about what should be on the certificate. They generally did not feel like it needed to be varietal. And actually, a lot of these folks are associated with growers who hold that as confidential information. So they didn't feel like it needed to be that level of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

difficulty, of specificity, but they felt like they needed to have, if you could say, like Delicious applies versus Gala apples, that was helpful to them. But they don't need to have super specific, like curled leaf parsley versus flat leaf parsley, just having parsley was good enough for them. Especially, if they were able to combine it with the information they also requested about the parcels on the farm, then they have enough experience and understanding of their market to be able to assure of what's going on.

MEMBER SMILLIE: Yes, that's the one that bothered me, the parcels on the certificate.

MS. COODY. Yes, I know.

MEMBER SMILLIE: I remember those days, man.

MS. COODY: Yes.

MEMBER SMILLIE: That's still done.

CHAIR O'RELL: I have Andrea, Dan, and then Barbara.

MEMBER CAROE: I have two issues

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

for you. One is the facilities used. I have an overlapping issue with our recommendation on private labelers --

MS. COODY: Right.

MEMBER CAROE: -- and not disclosing their manufacturer and the confidential information there. So, I'm not sure how to finesse that to allow for what you're looking for, which is the facilities. So, that's going to be an issue there. And for that reason, it may not end up on this rendition of the document, but something we'd consider in the future, if we can work that out.

And then the second thing, the last recommendation about requiring the certifiers to provide a publicly accessible database, I think the economic impact of that is going to prevent that from ever happening, because the small certifier that can comply with the regulation and provide their annual information to the program, it may be cost prohibitive to have such a site available, if they are a small certifier in, you know, Wyoming, doing local farms within

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

a hundred mile radius.

MS. COODY: Well, then you realize that they wouldn't have to update it very often. For example, a small certifier in Wyoming only updates, well, quite a few of them in that area of the country, they have one specific time where they take in applications and they basically to them in a batch because over the wintertime, they're really not certifying much farm work. So they can -- it doesn't take updating every day, if it's a really small certifier. And, you know, in contrast to a \$10,000 fee for accreditation, which is, you know, some of the estimates of the accreditation fees going up so much, it seems like it's really not all that much difficult, when you're already having to make sure that you're stable enough to be able to, as a certifier, to maintain your accreditation.

MEMBER CAROE: The issue is not with the maintenance --

MS. COODY: Okay.

MEMBER CAROE: it's with the infrastructure of having a database, a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

publicly accessible database.

MS. COODY: Well, you realize that it doesn't require that they have a database under the rule, but it does require that they make publicly accessible for three years, all of their certified parties for three years. They have to have some way to do that anyway.

Currently, they may be, every time they get a request they have to make copies and send it all out. These, the certifiers, in this group are currently going to the certifiers and asking them, they have long lists, you can imagine how many people they represent, they're going and asking for documentation on that stuff. This seems to be the most cost effective way to do it, in my mind. We saw it as a quick and easy way to provide it to all of the public, not just this slice.

CHAIR O'RELL: Dan?

MEMBER GIACOMINI: She, Andrea, covered it well enough.

CHAIR O'RELL: Okay. Barbara?

MS. ROBINSON: You know, I was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

probably one of the people who wasn't really in favor of expiration dates on certificates because, when the Program started, you know, there were lots of concerns about certifying agents being able to update in a timely fashion and that sort of thing.

I have a couple of comments. One is that I've, just because of compliance issues and several other issues that have evolved over time, I'm sort of coming around to seeing things a little differently. But I think there may be a compromise position here Mark and I have been talking about that and that is that, as we know, in the regulations, certification persists, certification exists until surrendered, revoked or suspended. That's just the regs. However, a certificate itself, under just, in document control, a certificate, a piece of paper, could possibly expire or need to be updated. Now, this might certainly help certifying agents who are trying to collect their fees or correct noncompliances. And I can see where somebody would say, well show us your certificate and somebody saying,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

well, I am still certified, I just don't have my updated certificate. Well, why not? Well, I just, you know, the check's in the mail, something like that.

At any rate, we're just sort of kicking this around but this may be some way to get where you want to go, without even perhaps without having to amend the regulation.

Now, my second concern, Lynn, though, when you start getting knee-deep, hip-deep, neck-deep in what you put on that certificate, I do get a little concerned with how far we go. Well, let me back up half a click.

As far as certifying agents making information available, the regulation already provides they are obliged make lists of their clients available. And they may charge a reasonable fee for that.

MS. COODY: That's right.

MS. ROBINSON: So that is already there, in the regulations. And we very -- we still do want to get to this electronic database, you know, it's the same old, same

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

old excuse we always have. Not enough money, not enough people and all that stuff. I don't know that requiring them to do it will make it happen nor do I think we'll be able to do it just because I think you're going to jeopardize or information collection burden again. And we're going to go to OMB and say now we're going to make everybody do this, we're going to force them to publish it on their own. And OMB's going to say, yes, but they already have the authority to do it, all anybody has to do is ask for it. And not only that, but if they're small guys, particularly, they can charge and recover the costs. So what are you making them do it for publicly, maintain a website, blah, blah, blah. So, that might be a nonstarter. I don't know.

Now, my last comment is just simply, once you start getting into things, getting beyond, I produce parsley to I produce curly leaf versus flat leaf, what worries me there is now we start forcing, I'm the producer, you know, my flat leaf parsley didn't grow this year, so now I want

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

to switch to curly leaf. I'm still a certified organic parsley producer and that's my business. Do I have to call the certifying agent up and go through all this? Now, I grant you, if I want to switch from parsley to potatoes, you've got a legitimate issue. But I don't think Joe Smillie deserves to make another dollar, excuse me Joe, my certifying agent --

MEMBER SMILLIE: No offense taken.

MS. ROBINSON: -- deserves to make another dollar just because I switched from flat leaf to curly leaf because one didn't work or the market shifted on me and my supplier wants something different, and that's not on my certificate and I can't produce it, and somebody says, ah-ha, you know, this could be fraudulent.

So I worry about how much detail we get into on the certificates. I understand what you're saying and again, just recently, from questions we get asked, I wish we had, we all wish we had more information. But it's sort of a be careful

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

what you ask for because you also can run into problems on the other side of that.

So, it's a two-edged sword with information. So --

MS. COODY: Well, I recognize that there are difficulties in finding out where the line is but you know that the rule does require if there's a change that affects the organic plan, that those people, the operators have to provide that information to the certifier has to make an amended certificate. So there's already a -
-

MS. ROBINSON: Not on the certificate.

MS. COODY: If there's a change to the --

MS. ROBINSON: Not an amended certificate. The plan has to be updated, the agent has to be notified. But if you say that that certificate is no longer valid, what concerns me is that now somebody's standing there saying, you know, if the agent can't get out there within the six and the agent says, you know, I don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

need to come out and --

MS. COODY: No, they don't' have to reinspect. They can just, they just can say, okay, this is all done under your same exact farm plan, it's just you changed carrots for parsley. They don't have to go out and re-inspect. They just do, well, under ISO, it's called, there's a whole procedure for amending the scope of certification.

MS. ROBINSON: Well, now we're back to -- all I'm saying is let's, can we take some baby steps here?

MS. COODY: Yes.

MS. ROBINSON: I mean, I'm willing to -- we're willing to --

MS. COODY: Baby steps are fine.

MS. ROBINSON: -- go. It's just let's proceed cautiously because the more information we load up on the certificate, the more I worry that we could, we start trapping people and then we get the opposite affect. People start calling us up, saying, you know, what did I do wrong here?

MS. COODY; Well, the problem

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

these folks are in, just to put it in perspective is, when I was working on this project for them, they all submitted to me all the certificates that were of concern to them. I saw fraudulent certificates. I saw things that had been doctored up on Photoshop. You know, all kinds of things.

These folks, as I said, they go through, their product cycle is very quick. So they are, basically, doing self-monitoring compliance actions based solely on certificates. And by that I mean, if they think something is fraudulent, they don't buy the product. They just say no. And that creates a big problem for the farmer who, he may be fine, it may just be a funky certificate that's in the way of the sale.

So, these produce operators have a very specific need in that they have to be able to function quickly. And that's why they need all the information they can get as quickly as possible. That's their bottom line point. So any way you can get that to them, they will be greatly happy for it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: Okay. I have questions from Bea, and then Mark, and then Gerry, quickly.

MEMBER JAMES: Okay. I want to know, how does OPWC handle new items from, sometimes it's not just a grower that they're getting the certificate from, a grower might be a broker. And that broker is buying from a lot of other different --

MS. COODY: Right.

MEMBER JAMES: -- growers and they decide to substitute Braeburn apples from one organic farm from another organic farm. So then there's always these new item updates and I'm wondering how they handle new items as they're updated and is there a way that we might be able to, on the certificate, make that process easier, so that there's not this continued --

Like the way that I know some retailers do it, they document new items as they come in and then send that information into the certifying agency so that they can see that they're keeping tack of new items as they come in. And that, so that is a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

very lengthy process.

MS. COODY: Oh, yes.

MEMBER JAMES: Basically, you have to have someone solely devoted just to certificates --

MS. COODY: Yes, they have people --

MEMBER JAMES: -- so that you can buy --

MS. COODY: -- they do have people solely devoted just to certificates and they're tracking the certificates and all the products that they're buying and reselling.

MEMBER JAMES: Right. So maybe, Lynn, that's something that you would go back and ask them, how they handle new items as they come in. I'm very curious.

MS. COODY: Okay.

MEMBER JAMES: And if there's ideas on how that process might be simplified in the tracking of certificates.

And then the other question that I had was expiration dates. Every different grower has a different time that they have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

been granted their certification.

MS. COODY: Right.

MEMBER JAMES: So, how -- if a certifier says okay, now all your certificates need to be up-to-date by this date, but that particular grower is still in compliance with being -- it's not that date, do you know what I'm saying, for their inspection to come up?

MS. COODY: For the inspection of the handler?

MEMBER JAMES: Yes. So there's this grace period between saying you need to have your certificate updated and perhaps that date is not, is before they actually are due for their inspection.

MS. COODY: Well they, I think I'm understanding your question. You're asking me about the certification of the handler themselves and then you're asking how are they tracking the --

MEMBER JAMES: Because if we say okay, we want to have expiration dates on certificates, then all of the sudden, there's going to be, you're going to have to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

get a certificate from every single person
that OPWC is purchasing from that --

MS. COODY: That's what they
keep. They keep all those certificates.

MEMBER JAMES: -- that is
currently from this day where, let's say,
NOP says all right. You're on. It's got to
be --

MS. COODY: Well, I think I see
what the problem is. If a system like this
were implemented, it could be implemented a
year out. So that, within that year,
everything would then, they would have all
the certificates in their files that have
expiration dates on them.

And by the way, remember, we
didn't ask for expiration dates on it.
We're asking for not the date it's expiring,
but the date that is actually issued or
becoming, the operation is certified and
then they're extrapolating from that, a year
out. Because expiration dates we were
afraid to ask for because the certification
couldn't expire. So we didn't want to go
into that. So we're asking for a little bit

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

of a different thing.

Okay. Is that it?

CHAIR O'RELL: Okay. Gerry, for the final question.

MEMBER DAVIS: Then the group you're representing, are they, and pardon me if I missed this in your comments, are they suggesting going down to the, I know commodity level, you know, not flat leaf versus curly leaf parsley, but they want commodity as well as parcel level information for the operation?

MS. COODY: Commodity is like broccoli versus apples?

MEMBER DAVIS: Cauliflower. You know, broccoli versus cauliflower.

MS. COODY: Yes.

MEMBER DAVIS: But as far as where that is grown. Are they asking --

MS. COODY: Oh, no, they're not.

MEMBER DAVIS: Back to the old days when we used to have to put every single parcel on the certificate?

MS. COODY: No. What they were trying to get to is they recently dealt with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

a case where they were together able to pool their knowledge to say wait a minute, that guy is selling way too much broccoli on the market than he has land for. Because they, basically, between all of these, have, basically, a corner on the wholesale market. So, if they put their information together, they can extrapolate and see if somebody is maybe bringing in conventional product and sticking it on the wholesale produce market. So that's why they want to know how many parcels people have. That's literally what they're doing. They want to know how much land do you have.

MEMBER DAVIS: So, not specifically itemizing the parcels, but they want to know acreage of this commodity on the certificate?

MS. COODY: We didn't specifically ask for that. They would love to have that, but I told them that was asking for too much. I felt like that was just not, that was going to be, having putting out, potentially information that was held confidential by growers and it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

wasn't going to fly. So, we backed off from that position.

CHAIR O'RELL: Okay.

MS. COODY: Oh boy. I'll tell you, next time I'm making my comments on accreditation because you never ask me questions on that.

(Laughter.)

CHAIR O'RELL: Thank you, Lynn.

MS. COODY: Thank you. Thanks everyone.

CHAIR O'RELL: Next, Katherine DiMatteo and then Rebecca Goldberg is up next. And I just remind the board, we've just completed page one of public comments.

UNIDENTIFIED SPEAKER: Doesn't it say Rebecca switched to Wednesday?

CHAIR O'RELL: Did Rebecca -- oh, I'm sorry. Rebecca moved to Wednesday. Oh, that's good. Okay.

Katherine, did you have a proxy? Is that what you're giving -- you are a proxy? So, five minutes.

MS. DiMATTEO: My name is Katherine DiMatteo and I, actually, I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

reading this for Nancy Hirshberg. So, I've just cut my hair, so you've got to pretend I still have long hair and I could look a little bit like Nancy Hirshberg, or at least the same size.

I also want to say that I didn't write this testimony nor advise on the contents of it. So I am, literally, reading this for Nancy Hirshberg of Stonyfield Farm. She extends her apologies for not being able to be here in person to read this. She had planned on doing so, but last minute things forced her to stay in New Hampshire. So, don't ask me any questions at the end.

CHAIR O'RELL: Did you hear that board?

(Laughter.)

MS. DiMATTEO: Thank you for the opportunity to comment on your recommendation regarding agricultural and nonagricultural substances for national list consideration.

As makers of organic yogurts and smoothies, this issue has enormous impact on our business. We recognize the challenging

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

task before the board to address this highly complex and technical issue and greatly appreciate your commitment to a clear, consistent and strong National Organic Standard.

A fundamental principle of the National Organic Standard is that even with a five percent nonorganic allowance, if an ingredient of material is available organically, it must be used. This will stimulate the development of new products as organic and it is an essential part of the process of continuous improvement which is vital to the organic community. It is why at Stonyfield Farm we use a nonorganic agricultural ingredient that is not available commercially. We take our responsibility to find an organic alternative very seriously. We don't simply make a few calls throughout the year to casually see if we can find an organic version of the ingredient. We believe it is our responsibility to work with our ingredient suppliers to develop an organic version.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Over the past decade, we have helped suppliers, we have helped bring to market numerous organic ingredients in the United States by being the first to use an organic version from juice concentrates to spices and flavors.

Stonyfield farm purchases dairy cultures from a variety of suppliers. The culture originates from beneficial bacteria in nature. The seed bacteria. The beneficial bacteria are isolated and purified to make what is called an inoculum. The inoculum is then used to seed a commercial scale fermentation, thereby allowing the production of greater volumes of the concentrated pure bacteria. Each grown step involves the use of various nutrients required for growth of the bacteria. Most of the nutrients are consumed by the cells during the fermentation. The unused nutrients are subsequently removed by concentration, to be sure that the finished culture contains as high a cell concentration as possible. The suppliers then ship us a small can, bag, or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

bottle of the culture in a frozen or freeze-dried form. In most cases, we add the culture to organic milk to grow a bulk culture which is then added to milk to make yogurt. In a few rare products, we add the culture directly to the Stonyfield product, where it will grow without first making a bulk culture.

The challenge with defining dairy cultures as an agricultural ingredient is that there is an inherent assumption that they can in fact be grown organically. Logically, it would follow, as it does, for all plants and animals that since the bacteria grow, they should be able to be grown organically. The reality, however, is that the sterile conditions and exacting specifications required for bacterial culture production, which have not been reviewed by the National Organic Standards Board, have specific media requirements, including nutrient level, PH buffers, etcetera. These require much more study to evaluate, if an organic production system is even remotely possible.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

If dairy cultures can, in fact, be grown to the National Organic Program crop, livestock, wild harvest, or handling requirements, then they must be agricultural. But if they cannot ever be an organic cultural product because of the specific growing requirements, then they should not be listed as agricultural and should remain on 205.605(a) as a microorganism.

Organisms such as yeast that have been documented that they can be grown organically, should be moved to 606. This approach would be consistent with the European Union Regulation EEC 2092/91 and the Food and Agricultural Organization World Health Organization Codex Alimentarius Guidelines for Organic Production, which consider microorganisms to be nonagricultural and permitted, provided they are not from genetically engineered sources.

Reclassifying dairy cultures as agricultural materials raises several challenges. At what point do bacteria become organic? The seed bacteria in nature

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

would not be organic. At Stonyfield Farm, we add the culture to organic milk. At the point the cultures are added to the soon to be yogurt, they represent .002 percent of the organic product. Is that where the bacteria becomes organic?

Finally, the new definition of nonagricultural would impact other materials on 205.605(a), in addition to yeast and dairy cultures. Enzymes, citric acid, and natural flavors, all will be impacted. Why should dairy cultures and yeast be the only materials identified for movement to 205.606.

In summary, while we greatly appreciate the National Organic Standards Board's positive intentions and hard work on this challenging topic, we believe that broadly redefining dairy cultures as agricultural ingredients, in conflict with Codex and European Union Standards, is not the prudent direction. We recommend the decision tree be modified so that if a microorganism, such as dairy cultures, cannot be grown organically, it remain on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

205.605(a). More research is needed on the potential of dairy cultures to be grown organically and where in the production process the bacteria could become organic.

Thank you for considering these comments and for your countless and often thankless hours devoted to maintaining strong organic standards.

And I will try to make copies of this so that you all have that.

CHAIR O'RELL: Thank you. That would be helpful. Thank you.

MS. DiMATTEO: Thank you.

CHAIR O'RELL: Andrea Kavanagh and then up next would be George Kuepper.

Andrea? So she wants to be moved to tomorrow? Okay. So Andrea moves to tomorrow. George. Lorette Picciano, I probably got that wrong, but hopefully you know who you are.

George?

MR. KUEPPER: Good afternoon. There's some handouts coming around. I heard that you didn't get enough paper to handle and read and I wanted to do my part

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

to rectify that.

I'm George Kuepper with National Center for Appropriate Technology. We run the ATTRA project. And for those of you not that familiar with ATTRA, we develop and disseminate information on sustainable farming, a lot of which is directed specifically to the organic community and that's what I'm here to talk about.

Back in 2005, early 2005, I spoke to this group about some of the group that we were doing under specific contract with the National Organic Program. It's kind of an update and I'm kind of here to update the update. Sort of a, guess it's half a public service announcement, I guess.

Of the documents that I distributed to you, there's one that reads organic market farm documentation forms. That's actually a spin-off of the first contract that we did with the NOP. The documentation forms are basically tools that the producers and handlers can use to demonstrate their compliance with regulation and, you know, how well they are following

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

the organic system plans. They are record keeping tools, basically.

And we found when we did the first rounds of these that materials that we were finding were developing were very appropriate for the larger scale operations but the small, bio-intensive farms, the small horticultural operations, they really just weren't appropriate for their circumstances. So, this is trying to fill that gap. And I hope you'll let certifiers and others know that these are available.

Under the current contract, we've developed a compliance checklist for handlers. And basically what this is is sort of a reorganization and rewriting of the regulation into a checklist form. The one that we had developed for producers was really widely used and we felt, you know, one for handlers was now appropriate and we're hoping to do more development work for handling operations in the future.

We've also done a lot on this contract with organic system plans. As you know, you all have, as a guidance document,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

some templates for farm system plans and for handling plans. What was missing was a livestock template and the program asked us to put one of those together and they are reviewing our work right now. Hopefully, before the end of this year, that will be generally available, along with the other updated templates, the ones that you worked on last year. Also, there will be some guides for system plans. We've taken and developed some examples with explanations, particularly for transitional farmers who, you know, are seeing these system plans for the first time. They don't know exactly what's wanted or why it's wanted. So we're suggesting language and ways that they can develop their plans to facilitate their application process.

And I'd just like to express appreciation to the people that help us on this. We feel it's real important to have a stakeholder team from the organic community. And if you look on the inside of that checklist, you'll see some of the folks that we have. They include Nancy Ostiguy and Jim

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Riddle, who is a past member of this board. And also, thanks to Barbara and Mark for supporting us in doing this work. And I'll mention Bob Pooler, too, he's been doing the reviews for us.

So that's all I have to say, formally.

CHAIR O'RELL: Thank you, George.

MR. KUEPPER: I appreciate it.

CHAIR O'RELL: Thank you. Any question for George?

MEMBER SMILLIE: Well, just a quick comment. I think it's great work because one of the problems as a certification agent, that certification agents have, is that a lot of times, they'll get applications in, it will say, what do you mean, how do I do this? And we're not allowed, as certification agents of USDA, to help them. So, having this resource, we can direct a lot of our applicants to your website. So I think you need to get this popularized among the certifiers because it will really help them help their clients, because they're not to do so directly.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

One of the common questions we get is, can you send me like a sample of how I -- who is buying drinks -- you know, how can I, give me an example of how I fill out a compliance plan.

MR. KUEPPER: Joes, yes, that's exactly what we've done with these guides.

MEMBER SMILLIE: Right.

MR. KUEPPER: There's one designed for large cropping operations, one for small, and then for livestock.

MEMBER SMILLIE: Part of the ACA training.

MR. KUEPPER: Yes.

CHAIR O'RELL: George, this looks really good for a checklist for handlers and I'll be anxious to go through it. But thank you very much for your hard work.

MR. KUEPPER: Thank you.

CHAIR O'RELL: Lorette Picciano?

(No response.)

CHAIR O'RELL: Okay. Bill Wolf?

MEMBER CAROE: Welcome back,
Bill.

MR. WOLF: I thought I was three

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

back in cue. Wow.

I really first want to say thank you all for your hard work and your efforts. I know you've heard this before, but this comes from someone who has seen the work that you all have to do. And seeing how the NOSB has been evolving and taking on the harder and harder details of the process.

The first time that I spoke at an NOSB meeting, there were four people in the audience. That was in 1992 and I haven't been to one in five years and I'm really impressed with the discipline and the thoroughness with which you're looking at really getting into the harder and harder issues that you guys have to face.

I'm speaking today for Wolf & Associates and for a client that will be speaking after me. And I really want to talk about *Aspergillus oryzae* and about microorganisms and talk about that in context, as you've been hearing the ideas of are microorganisms possible to be certified organic.

I need to step back for a second

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

and talk about the fact that really organic is a philosophy, it is not a science and that there are certain basic principles that I hope we all support. But like most philosophies, there are differences in opinion about interpretations and that I think that is at the heart of the issues you are now facing.

A few common principles I believe are important to the long-term integrity of organic. One of them is the principle of continuous improvement, that whatever we do in building these regulations and in refining them is based on the principle that we are pushing the edges and the frontiers all the time. And a second principle that comes into play here is organic preference. We've been forced to face organic preference a little differently as a result of the requirement to have all materials on 606 by next June. And that has driven a reevaluation of it by a number of manufacturers of their certification compliance.

In the case of *Aspergillus oryzae*

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

and koji mold, it was being allowed as, by a number of certifiers, as a non-commercially available organic and agricultural ingredient but that determination was not specified in the national list. It was simply the methodology that certifiers, in reviewing the production methods, determined that certain products were allowed.

The use of microorganisms and especially *Aspergillus oryzae*, has been in food production as a long and honorable history, literally for hundreds, if not thousands of years. And I think that's part of this pictures. It is possible to make these cultures organically and it is possible to grow them organically. And with that in mind, we need to be taking the high road. It think it's also possible to identify the difference between the spore and the grown out culture. And that, over time, may be one of the answers that you have to dice in the process.

In fact, in looking at all of the ways that different certifiers and products have been certified, we identified a couple

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

of products that were differentiating that way. One was a miso product that lists their rice koji as organic but their koji spores themselves that they receive and bring into the facility as nonorganic.

Briefly, what I need to say is that the important thing is that you look at that look at that long-term view of where we want to be in the industry and that the solutions and improvements come from creating the platform that allows for that innovation to proceed, that we do have the concepts of the standards, we will figure out how to comply. Mushrooms are a good example.

And right now, microorganisms are on 605(a). They were placed there as the result of a petition by Kikkoman, that's what drove them to that location. There is currently a petition on your list for koji mold to be placed on 606. It has been misstated on your list as being desired to be on 605(a). A shoyu company from Japan, Higashimaru, specifically requested that it be on 606 because they saw the opportunity

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

and they saw that that's where it belonged.

The fact is that San-J, who will be speaking next, we advised them that they had solved the problem of their current certification because microorganism were being placed on 605(a) but they took the high road and said, no we want to see koji mold identified as agricultural. And I think that, with that in mind, we support the Materials and Handling Committee recommendations of the Ag/Non-ag position.

CHAIR O'RELL: Thank you, Bill.

MR. WOLF: It's the right thing to do.

CHAIR O'RELL: Thank you, Bill.

MR. WOLF: Thank you.

CHAIR O'RELL: Are there any questions for Bill? Nancy?

MEMBER OSTIGUY: You implied that there's a difference between spores and the vegetative growth of a microorganism. Could you explain why you have split that in your mind?

MR. WOLF: Well, I think it's, the real comparison is like a vegetable

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

seed, versus the growing out of the plant. The spore is produced by isolating the seed itself and then the fermentation process is just like growing a plant. And those two things are separate in the process. And if you look at the process of making sake or tamari or shoyu or even natto, those two steps are normally quite separate in the fermentation and in the agricultural process.

MEMBER OSTIGUY: But in the same way that we have a requirement to use organic seed, if it's available, would that not also apply to the situation that you are looking at?

MR. WOLF: That is what I believe is the correct the long-term approach to this issue, that we should have an organic preference and be moving and changing the regulatory structure. And the Ag/Non-ag recommendation moves us in that direction. That is what I was trying to say.

CHAIR O'RELL: Bea?

MEMBER JAMES: I don't know if you know the answer to this, would Kambucha

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

fall into the same category as the other fermented products that you mentioned?

MR. WOLF: I believe it uses a different organism, but it is the same conceptual process. I've got some data in this file. I could look it up and answer you in more detail.

CHAIR O'RELL: Andrea, did you have a --

MEMBER CAROE: Just really quickly, Bill. We're hearing some concerns, well, we're hearing lots of concerns that there are not clear standards for the propagating of organic single-cell organisms within the regulation. You, I think you're of the same mind as me in that those, we can extrapolate that from the existing regulations and what is applicable. Do you see, though that there is a necessity to clearly define those extrapolated requirements prior to categorizing these as agricultural? I mean that's what we're hearing, a lot of concern is that --

MR. WOLF: Right. I think that that -- I think that we should just move

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

forward and that the framework for certification is there. The certifiers have the capacity now to certify microbial products. I don't think we have -- it's just like mushrooms. We have certified organic mushrooms and we have a framework in the standards already outlined for making these decisions. The substrate would need to be organic. The process would need to be verified and compliant throughout the rule.

And I think the issue of livestock versus plant life is a tough one and that is something that has to be worked out.

MEMBER CAROE: Okay. Thank you, Bill.

MR. WOLF: Thank you. CHAIR
O'RELL: Thank you, Bill.

Well, we are, I am reminded, we are scheduled for a break now. I'd like to ask the board to take truly 15 minutes and come back. Because we do want to recess somewhat on time this evening. So, please take 15 minutes.

When we come back, Rachel Snoddy

would be up next. Following her will be
Leslie Zuck.

Thank you.

(Whereupon a short recess was
taken.)

CHAIR O'RELL: Can I get
everybody to take their seats, please?

We are going to resume with the
public comments. Rachel Snoddy. Rachel?

MS. SNODDY: Good afternoon. My
name is Rachel Snoddy and I am from San-J
International.

I would like to take this
opportunity to thank the National Organic
Standards members for your diligent work and
your consideration of the complex issues of
organic production and processing. I would
also like to thank the National Organic
Program staff for their work to ensure that
the U.S. organic regulation is implemented
efficiently and effectively within the
constraints of their limited budget.

I am the Production Quality
Control Coordinator at San-J International,
Incorporated located in Richmond, Virginia

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

since 1987. Our founding company is San-Jirushi Corporation in Japan, which is now owned by Yamasa Shoyu Corporation. We are the producers of soy sauce and related products.

Our founder, Mr. Sato, started San-Jirushi to fulfill his dream of providing natural miso and shoyu using traditional methods of production. Our products are sold throughout the United States and in a number of countries around the world, including Japan, Australia, New Zealand, and Canada, and throughout Europe.

1989, San-J introduced organic tamari and shoyu soy sauces. Organic sales currently represent 50 percent of our overall sales and have increased five times since 1990. We have introduced one new organic product in the past two years and have a strong commitment to increase the number of organic products and amount of organic ingredients in our products. Yamasa Shoyu Corporation also produces organic products in Japan.

San-J International supports the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

recommendation of the NOSB Joint Materials and Handling Committee regarding the definition of agricultural and non-agricultural. In particular, we agree that microorganisms that are traditionally used in the manufacturing and preparation of foods should be considered agricultural.

The committee's recommendation supports both the organic foods production act that includes non-plant life within the scope of the law and the 2002 technical advisory panel review of microorganisms used in organic processed foods. The TAP review includes a recommendation from the organic materials review institute that "another alternative would be to consider, in the future, recognition of such cultures as agricultural commodities."

In the committee's recommendation, the determination of an agricultural product is based on whether the non-plant life grows on plant products, is consumed whole as part of the finished product, and has a history of use in food. Let me explain how koji mold is produced, in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

order to illustrate how koji mold meets these requirements and, therefore, why this substrate should be considered agricultural.

Koji mold also known as seed mold or seed koji is produced by inoculating an agricultural substrate, such as rice or barley, with *Aspergillus oryzae*, a microorganism currently allowed for use under Section 205.605 of the National Organic Program Rules. This begins a growth process to produce spores that are dried, collected, and blended with a carrier, such as cornstarch. At this stage, this is koji mold. Organic soy is then inoculated with the mold and fermented to produce products such as soy sauce and miso. This six month natural fermentation process has been used for over 200 years. In our opinion, koji mold and other non-plant life grown in a similar process clearly is an agricultural product.

Although koji mold is currently not available in an organic form, it is possible that an organic form could be produced in the future. Although this may

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

take time to develop, organic production should be pursued in order to continually expand the use of organic ingredients in organic processed products.

In our company, taking this as a fundamental responsibility has begun to talk to our suppliers about the possibility. I urge all of the members of the National Organic Standards Board to vote in favor of the recommendation for the definition of agricultural and non-agricultural that the Joint Material and Handling Committee has recommended.

Thank you.

CHAIR O'RELL: Thank you, Rachel.
Any questions?

(No response.)

CHAIR O'RELL: Thank you very much.

Tina Ellor and next on deck is Emily Brown Rosen.

MS. ELLOR: Hi. I'm Tina Ellor from Phillips Mushroom Farms. It's so good to see all this fungus being talked about for a change.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(Laughter.)

MS. ELLOR: I am, by professional, a mycologist and you know, I've always assumed mushrooms to be agricultural products, I'd like to say that up front, but certainly not livestock. And I have to say that part worried me a bit.

As you know, we certify under the crops standard. And so far, it's been working well. We would rather, of course, have our own mushroom standard. Just another -- I always plug for that and I will forever until we get one. If there's a task force to be done, I'll take it on.

I'd like us to remember that we're not an island. We live within a larger framework and a lot of this terminology is well established. And I don't, what really worried me, when I saw the recommendation, if it's not a plant, it must be an animal, which, of course, is not true. I brought my son's biology book and there actually are six kingdoms and, you know, they're split into that classification for various reasons. But this an ever-

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

changing organization and I've addressed this organization countless times.

And before I go any further, and not to start a brawl, but as a true token of respect, I'd just like to give you a little bow because I know the amount of work and the amount of material that you guy must have to learn about, you know, to make these determinations.

I have no problem with the agricultural/non-agricultural determination but I'd like to make sure that we live within established nomenclature, so to speak. So, if it's not a plant, that doesn't make it animal.

And also, a microorganism is anything that you can't see with your eye. That's the definition. So not all fungi are microorganisms. Not all microorganisms, of course, are fungi either.

So, I'd like if we could keep in mind the established nomenclature for these things because, of course, mushrooms are always grouped with fruits and vegetables. You always find them in the produce section,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

not in the meat section. And the very idea of certifying mushrooms under a livestock certification, I had the cold sweats all night last night. So, I just, you know, I'd like you to keep that in mind. And if you want a boring lesson on the classification system, I'm your woman.

Thank you very much.

CHAIR O'RELL: Thank you very much.

Tina, if you want to learn about the approach to non-ag/ag on the classification of kingdoms, we've been down that route.

MS. ELLOR: Right. I figured you had.

CHAIR O'RELL: That's our previous ones.

MS. ELLOR: I figured you had.

CHAIR O'RELL: Yes.

MS. ELLOR: But the way it came through in, you know, that one paragraph, I didn't bring it up with me was that, you know since it's not --

CHAIR O'RELL: No, I appreciate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

the comment in that regard but --

MS. ELLOR: And this is an ever changing group of people. And down the road, you know, I don't want another group to say hey, wait a minute, you know, yeast are certified as livestock, why shouldn't mushrooms be?

So, I'd like to see us have our own standards, mushroom standards. Microbial standards certainly would over it. Keep in mind, you can't make it single-celled, because there are many, as the *Aspergillus*, of course, is a filamentous fungi with many cells. So even be careful how you use that term. And of course, there are many filamentous yeast as well. And I'm a mycologist, I'm a geek, I admit it.

CHAIR O'RELL: Andrea, then Joe.

MEMBER CAROE: Just really quickly, one of the things that we were challenged with when we were going down that kingdom route and trying to distinguish, and we have very distinguished scientists on the board to help us out with this, --

MS. ELLOR: Right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER CAROE: -- is not a scientific challenge as much as a regulatory challenge in that, you know, we must make our justifications based on information that's provided to us in the OFPA, the statute and the regulation to a lesser degree. But it was very hard to justify carving out and, essentially, reverse engineering what we've done, what the past boards have done to get to that point.

So, if you have suggestions in that area, arena, that's really, you know, I think we're in agreement where we want to go, but how to get there --

MS. ELLOR: Right.

MEMBER CAROE: -- is not an easy --

MS. ELLOR: Right.

MEMBER CAROE: -- task when it comes to getting this recommendation --

MS. ELLOR: But I think for us to start reclassify life is not, I don't know how to put this well, it's not very credible. There's this existing framework that's recognized throughout the world and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

not just in the scientific community. This is my seventh grader's biology book, you know? We have to do it within a framework so that, and also within other, I mean certainly mushrooms have always been considered agricultural and never been considered livestock, the FDA certainly puts them with fruits and vegetables, the USDA does. You know, I just don't think it's credible to sort of reclassify life for regulatory convenience. You know?

CHAIR O'RELL: Nancy and then Joe. Sorry. Sorry, Joe. Sorry, Nancy.

MEMBER OSTIGUY: First off, Tina, I agree with you, that there are different kingdoms. But the difficulty does come in with regulations and laws. One of the problems I run in to all the time is explaining to my students how runoff from an agricultural field is a non-point source of water pollution. They keep saying, but I can point to where it's coming from. And they're right, but it's defined legally as a non-point source. So, I'm not coming down on one side or another but I'm just saying

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

that the law actually frequently does not pay attention to biology and science in general.

MS. ELLOR: Yes, this is pretty fundamental, though.

MEMBER OSTIGUY: I know. It's basic.

MS. ELLOR: This is pretty frustrating.

MEMBER GIACOMINI: There aren't very many soybean cows though either and it's on the dairy case. So --

MS. ELLOR: But we are going to do for outdoor --

(Laughter.)

MS. ELLOR: Yes, how are we going to get those mushrooms outside? They just don't move very fast.

CHAIR O'RELL: Okay. I have Joe for a question.

MEMBER SMILLIE: Well, basically, the point I was going to make, Andrea and Nancy made it, is again we're getting beat up about the livestock issue. But the reason why that came up at all is if we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

would have used common sense, we could deal with this issue and deal with it very appropriately, quickly and efficiently. We lack a regulatory base to do so. We know what the right thing to do is. We have to justify it via the regulation. And, as Nancy said, regulation doesn't always follow common sense or science, in some cases.

So, that's why the whole livestock issue came up. Obviously, we -- the regulatory basis by which we felt we could proceed from. That's the only reason why it's there. We don't intend to pasture them or anything.

MS. ELLOR: But from the beginning, I mean, if we could start properly from the beginning. And you know, we had a mushroom standard that was recommended by the NOSB that got dropped for various reasons. And the same with, you know, we're always trying to put round pegs into square holes. We need a mushroom standard, possibly we need a microbial standard because it is very different. And certainly how you grow yeast is much more

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

akin to how you grow bacteria than how you grow mushrooms. And of course, growing mushrooms is much more akin to a field crop, although it's pretty distant, than say, you know, cattle or dairy or whatever.

So, anyway, thank you very, very much.

CHAIR O'RELL: Bea?

MEMBER JAMES: I just want to make sure that what I hear you asking is that you're saying you would rather see a new standard made for the classification of mushrooms instead of having it grandfathered inappropriately into livestock, where it doesn't really fit.

MS. ELLOR: Absolutely. Absolutely. And now we certify under crops which we made work. It's not an exact fit and there's a lot of inconsistency, you know. So, a mushroom standard wouldn't be too hard to come up with. There are certainly lots of people who could do that.

CHAIR O'RELL: Thank you. Emily? Emily Brown Rosen and then following Emily is Will Daniels.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MS. ROSEN: Yes, I have a proxy from Harriet Behar for an extra five minutes.

CHAIR O'RELL: Harriet is --

MS. ROSEN: Are you signed up also?

CHAIR O'RELL: Harriet is on the list.

MS. ROSEN: Yes.

CHAIR O'RELL: So, you're taking that place? Okay got it, thank you.

MS. ROSEN: For myself and Harriet. We're passing out some copies of my comments here for you.

My name is Emily Brown Rosen and I've been up here before. Many of you know me. Right now I'm working as the Materials Review Manager for Pennsylvania Certified Organic, so my comments are on behalf of PCO today.

I'd like to talk about three of the recommendations. First I'm going to talk a little about commercial availability, the guidance for a listing of certifying agents names on labels and then agricultural

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

and nonagricultural. So I'll start off with the shorter document first, it's on two sides.

And basically, commercial availability, we do support this recommendation and especially the intent of this recommendation as far as helping establish more criteria and review of the substances petitioned for 606. In fact, we think that the additional information requested about availability of sources is useful. It will be helpful to NOSB in evaluating the petitions and we also support the role of NOSB in making an initial determination on commercial availability. We think that's an important first job for materials that are petitioned and that that's not something you should shirk from doing. That's part of the whole national list process.

Then further down the line, the certifiers will have to do the more nuts and bolts to get more specific on the commercial availability determinations but it's helpful if they're screened first on the list and we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

know, you know, the universe of things to work with. So, we do support that.

In Part C, the role of accredited agencies, we think you've gotten a little close to the line under point three there, where you've recommended or required that certifiers notify clients of sources of information of commercial availability. As you know, certifiers are not allowed to consult or give direct advice to clients that will overcome barriers to certification. So we feel this really is, if not crossing the line, very close and it's not really certifiers' jobs to help processors source ingredients. We feel that should be left out.

Under point four, we don't object. We can see the value of filing these notification reports to NOP about any exemptions provided but we would like to see an additional point in that document stating that the NOP's role, in this case, is to gather this information and publish it and make it available. We don't want to be burdened with collecting all this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

information, updating it regularly, sending it to the NOP and not having it publicly available, having it in a box, or really inaccessible. So, you know, we'd be happy to do it, but it needs to go somewhere once we do do it.

We do, in general, recognize this as a really hard part of the rule. And good luck. It's going to be a big job coming up here. And we're also very supportive of any private sector development of databases that are more interactive, that can be more useful for the industry. So, maybe that's something, you know, that would be an easy thing to say, there's a database out there, go check it and we can work with it. But, it's not there yet and I think we should all be scratching our heads and figure out a way to make that happen.

As far as certifying agents names on the labels, we think it's great that you're working with NOP on Q and A's on this. It's always a confusing part of the rule to explain to people and also, you know, what has to be on the label. We've

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

seen a lot of different problems with that. But I think the questions that you were given to work with are a little narrow and don't really cover the scope of the types of problems that are out there. So, I've taken the liberty of writing six new questions, sort of similar to the ones that you have.

I'm not going to read them all but it does, I think, cover the turf a little better and I think it helps with who has to be certified, whose name is on the label. And you can, I won't read them all out loud, but you can look through them. I mean, for example, I added a new one here. I mean, because it's not just the retail level, it's also the manufacturing level, when a manufacturer who is certified has a lot of co-packers. We need to cover that base too.

So, my last question here is, what if a certified manufacturer uses more than one processing facility to manufacture a product and the facilities are certified by different agencies? Do all agencies need to be on the label? And the answer is no.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

The agency that certifies the manufacturer whose name is on the label can be listed for all the products. The manufacturer, in that case, is responsible for the audit trail and acts as the final handler. So it's like clarifying who is the final handler. And I think this will help. So, I hope you can take a look at that.

Okay. Moving on. Agricultural and nonagricultural substances. I want to give a lot of support for Oregon Tilth and the work they've done on this. Gwendolyn and I have been trading emails like crazy the last two weeks in trying to sort this whole thing out. And her concerns, she listed four major concerns, are really all my concerns, they're all in this document, too. They're in a different number of order, but they're pretty much the same ones, plus I added another one but we are concerned.

You know, our number one concern is probably the impact on the other sectors, and particularly livestock. We certify a lot of livestock in Pennsylvania and dairy

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

farmers, particularly fond of adding, what is termed by AAFCO as direct fed microorganisms to the animals' diet. It's generally a bacillus, lacto bacillus, various different bacteria. It can be a combination of bacteria and fungi. It's just standard good practice. And my concern is that if you're coming up with this new process for determining agricultural and microorganisms, I mean, it's hard to see how yeast and not bacteria or some organisms are and some aren't agricultural. But if they become agricultural in general, are we going to have a different rule to describe agricultural for the purposes of feed as for the purposes of food? It seems like you'd want one method of doing that for across the board here.

And secondly, in livestock, we don't have a commercial availability clause. If something is agricultural for livestock feed, it's supposed to be organic. So, we'd have a little bit of a conundrum here where you've called them agricultural, they're not available organically, what are they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

supposed to do? So, I don't have a good answer for that, other than, I don't think you should move these things at this point. I don't think it works.

The other industries that haven't been consulted are the brewers and the wine makers and, you know, we've head from one dairy processor, but I think there's a lot of other cheese and dairy people that really might have more to say on this. So, I don't think it's, I mean, it's an idea. I think it's good to think for the future, but I think we need to look at this a little more carefully and think about it a little bit more.

The second main concern is consistency, as Gwendolyn noted. There is, if we're going to do this, you know, in the name of making the definition more consistent with the list, we're ending up with microorganisms as non-synthetic allowed and yeast as requiring to be organic when available and whose to say when we're using it as an organism and when we're calling it yeast. There's going to be total confusion

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

to move some and not all. So, I think, you know, plus also if you're going to go that route, then we have enzymes that are products of organisms, vitamins can be products of organisms. Are we going to go through this and do this all consistently? I think that's what's needed. So, I can, I have to agree with Gwendolyn, it's sort of all or nothing. And I'm sort of falling on the nothing side, at this point, I hate to say.

And the third reason which we've all heard is that, is we don't know how to do it. Okay? We don't have standards. What do we start with?

If we're going to continually need a laboratory sterile inoculant for your dairy culture and then you're going to grow it one small vat and grow it bigger and bigger and bigger. But there's very prescribed systems. Where does the nonorganic part come from? Is that okay, to be nonorganic forever? When does it become organic? It's really we're talking more like processing function not really, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

know, you can say cultivating, it's growing, but it's sort of more like making a food product. You know, you're taking something and growing it out to make it a bigger food product. But still, we're not clear how to, you know, what is laboratory source organisms? You know, how you would calculate percentage of the weight of the substrate when they're going through five different batches? How would get 95 percent?

There's really no, there hasn't been a lot of thought about this and, you know, I don't know how to do it. We'd like to see guidance and rules before we're suddenly put into that position.

Okay. And fourth, I agree, this is not a technical correction. You have a process. We've been told over and over again, we need petitions. I believe the OPFA says there needs to be a TAP review. There's an old review from 11 years ago that doesn't really cut it on dairy cultures, at this point. So, I really think you need to gather that information.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

We've used information in TAP reviews to help us with further certification decisions down the road. We look back at those TAP reviews to say, oh yes, this farm was decided synthetic, this wasn't. This is the manufacturing process that was reviewed and allowed. And that helps us to set these standards.

So, I think if we go through it now, you've got a petition on yeast, if you go through your normal process, that will help you, you know, figure out which way to go, and which type of products and what the rules are. So I really encourage you to stick with the process like you always do. And it might take a little longer, but we'll have a good process.

(Timer sounds.)

MS. ROSEN: Okay. I guess I'll -
- that was ten minutes, right? Okay.

CHAIR O'RELL: That was.

MS. ROSEN: I could go longer but that's okay.

CHAIR O'RELL: We know you could.

MS. ROSEN: Any questions?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: Thank you, Emily.

MS. ROSEN: Okay.

CHAIR O'RELL: Any questions for Emily? Joe?

MEMBER SMILLIE: On point three, and the role of accredited certification agencies, representing certifiers, I agree. Point three is sensitive. You're absolutely correct. Certifiers are not allowed to help prospective people who are being certified. But, at the same time, we're where the rubber hits the road. You know, it's the certifiers that have to deal with, you know, well, you say it's available, you know, where, how, why? And obviously we can't say, well go to so and so. But I think we do need the power to point out, and the wording was carefully chosen, it's sources of information, not direct information. So, what we're looking for is organizations like OTA and then we just heard ATTRA and others who stepped forward to provide those data banks, that manufacturers that create these products that are available in form quality and quantity, you know, we can get the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

people who want to get certified to those sources. So, I do want to keep the role of certification agents. I do realize it's a very sensitive point and it has to be clearly understood by certification agents how they far they can go in providing support and help.

MS. ROSEN: I wasn't clear if you were, you know, you're proposal is like a guidance to what the certifier's role should be, right? So you're not saying they're required to do this?

MEMBER SMILLIE: No.

MS. ROSEN: I mean, you know, that's fine. I mean, we always provide general information to people on all kinds of topics. That's applied to all fairly.

MEMBER SMILLIE: Right. And I think eventually it will come down to the ACA training and we'll get guidance on exactly what we can say and can't say. And again, relying on organizations like OTA and ATTRA to promote their role in OMRI, in making these sources available. It's going to be critical because really, when you're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

dealing with people who are getting certified for the first time, it's a new world for a lot of these producers and handlers. They don't know how to find organic stuff. They've been buying from the same supplier for like 20 years, now they've got to do organic.

You know, so we do need to, as conduits, we need to be able to get them to the information without breaking our role.

CHAIR O'RELL: Bea?

MEMBER JAMES: Thank you for putting together your easier to read version of the retailer Q & A. And I just want to make sure because when I go through and I read this, it just seems like you're not really saying anything outside of what we had already put into the recommendation.

MS. ROSEN: No, I just tried to expand it a little.

MEMBER JAMES: You're just trying to clarify it more. It's not that you're disagreeing with the way --

MS. ROSEN: No. No, there's no disagreement.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER JAMES: Right.

MS. ROSEN: Okay.

CHAIR O'RELL: Thank you, Emily.

MS. ROSEN: Thanks.

CHAIR O'RELL: Will Daniels? And then on deck is Suren Mishra.

MR. DANIELS: Thank you. Will Daniels, Chairman of the Board of CCOF. And I'd like to thank the NOSB as well the NOP for allowing me the time to speak today.

My comments today are really nothing more than echoing many of the comments that were already said today, so I will be brief.

With regards to TAP reviews, CCOF supports the conclusions of the TAP reviews and we'd like to express our desire to keep those TAP reviews moving forward, especially those that blur the line between materials and a process.

With respect to Ag versus Non-ag, CCOF has concern for the agricultural versus nonagricultural proposal. While we appreciate the points raised in the recommendation, we're not sure if a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

technical correction is feasible. And further guidance is needed on how to certify microorganisms.

With respect to private labels, private label certification is an integral of our organic system. CCOF certifies private labels and they must adhere to the same standards of certification, providing detailed records for auditing, oversight over labeling, certified suppliers, etcetera. Requiring the company to list each co-packer may be too costly and, therefore, we don't recommend it.

Regarding standardized certificates, standardized certificates, including an indication of some sort of an expiration, are important and needed. However, overly prescriptive requirements regarding fonts, spacing and the like, are unnecessary.

I think that's it for today.
Thank you. Any questions?

UNIDENTIFIED SPEAKER: We appreciate your brevity.

(Laughter.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: Thank you for being so to the point, yes.

Suren Mishra? Anthony Pavel is on deck.

MR. MISHRA: I am Suren Mishra from TETRA Technologies. I am a business development manager for the company and I also manage intellectual properties. This is the first time I am coming to you. I had opportunity to interact with patent and trademark office, convincing my case. So let me see if I can convince you here.

I heard Bill Wolf made a statement philosophy or science. When science becomes sophisticated, it becomes philosophy. And when it is further upgraded, it becomes art. So, I will try to stay at the scientific level. I am not a philosopher, I am a scientist.

I am addressing the issue of calcium chloride being still put in the prohibition list of NOSB. It is well established for long time that both calcium and chloride are nutrients applied foliar, as well as in soil. Calcium chloride has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

been used for a long time, at least for over 20 years in the agriculture industry. TETRA alone, I don't quote the exact figure, but would be hundreds of thousands of tons of calcium chloride have been sold in agriculture market, both for soil applications, as well as for foliar applications.

It is also an excellent source of calcium for soil amendment and I'm sure we go around the world and you go around the United States, there is very large percentage, a significant percentage of soil is affected by salt. And calcium chloride we are selling into that market for soil amendment. It is not restricted only to the crops. Fruits, vegetables as well. So, we are selling into that market.

It has got a role to play, as it has got readily available calcium. It works very instantaneously, very rapidly, as compared to less soluble calcium source which traditionally has been applied in the industry for a long time.

What we are concerned about is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

calcium chloride has been classified organic for foliar applications but not for soil applications. And principally, what is happening is the chloride issue. One of my colleagues is sitting in the back, Charles Sandler, he always reported that people have that chlorophobia. Sure, people have concern about chloride ions and for that I have attached with this list of various soils from different parts of United States and if you look at the chloride content, they are pretty reasonable. In fact, in many areas, very deficient in chloride content. So, chlorophobia is not an issue, if it is applied properly.

On the other hand, what we have noted that potassium chloride is being classified both for organic, for foliar and soil applications. Why the difference? As a matter of fact, there is a proviso with the potassium chloride and that is, it must be applied with care so that chloride build-up doesn't take place. That's genuine concern. Potassium is a monovalent ion, it can disburse the soil, if it is added in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

excessive amount and it will entrap chloride species in there. On the other hand, calcium being divalent, it tends to flocculate and so, chloride species will not stay there. It gets down away from the root zone. So, from that point of view, calcium chloride should be preferable over potassium chloride, as far as chloride sources concerned, which is a nutrient.

Potassium chloride is used all the way up to thousand pounds per acre. On the other hand, calcium chloride is in the range of ten to thirty gallons. That's equivalent to something like 100 pounds per acre, which is much more reasonable, as compared to what you see in case of potassium chloride.

(Timer sounds.)

MR. MISHRA: I will request potassium chloride and calcium chloride should be given equal treatment. And I am open to questions.

CHAIR O'RELL: Thank you. Any questions?

MEMBER DAVIS: I have a question.

CHAIR O'RELL: Gerry?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER DAVIS: Suren, the chloride concentration of -- I think you make a good point when you talk about potassium chloride and calcium chloride. Why would one be not restricted for soil use, as in the potassium chloride, and the calcium chloride would be restricted? We grappled with that in our discussions on the committee and didn't -- I'll have to give you that one. We didn't approve the potassium chloride.

But you're right, the chloride is the issue and using it as a soil application, it's perceived that yes, it's soluble and yes, it's not going to stay in the profile, it's going to leech through. And that brings up the issue of possible environmental contamination. Not that it would have a high parts per million concentration per application, but if you're continually adding more and more, what are we doing underneath? I mean, that was the issue that we grappled with, as far as one of the criteria for does it pass or not.

Your information showed that your

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

company would like to have it applied for salt remediation because it's better than, you know, to go into alkaline soils. And it seems counterintuitive, to me at least, to apply a salt to an alkaline soil to remediate salt. I know it, I understand the science behind it and what it does, it just kind of goes against the philosophy of organic a little bit. And I think that's what you're struggling with.

MR. MISHRA: Well, let me answer your question.

MEMBER DAVIS: Okay.

MR. MISHRA: The first instance regarding the chloride level, if you are to compare potassium versus calcium, potassium application is much much higher than calcium application, in general in soil, number one. For soil remediation, now what are you trying to do? It is, you're not -- we have got data available --

MEMBER DAVIS: No, I understand. I know potassium chloride would not be for soil remediation, that is something specific to your --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MR. MISHRA: No, I understand.
I'm not talking about -- that's one answer.

Another one is for soil remediation, you have said the chloride is an issue. Right? As a matter of fact, if you go and look at soil, affected soil, which will have higher chloride content, then once it has been remediated with calcium chloride, because it is taken out of the system, it is entrapped. Because soil is disbursed, so chloride is trapped into the soil physical structure. Once calcium replaces sodium, it flocculates the soil, it makes it permeable. Chloride gets out of the root zone. It removes the toxicity of sodium, as well as chloride.

CHAIR O'RELL: Nancy, I have a question. Go ahead.

MEMBER OSTIGUY: You still didn't answer the question of where the chloride goes.

MR. MISHRA: Sure.

MEMBER OSTIGUY: Because if it's going beyond the root zone --

MR. MISHRA: It will go down.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER OSTIGUY: -- it still does

--

MR. MISHRA: Sure. Ultimately,
it will go down. Sure.

MEMBER OSTIGUY: Right.

MR. MISHRA: It will flow down.

MEMBER OSTIGUY: In reality, we
are dealing with philosophy rather than
science. Potassium chloride is prohibited,
unless it's from a mine source. The law
allows that material to be used because it
is non-synthetic. Your material is
synthetic.

MR. MISHRA: No, it is not. It
is mine source.

MEMBER OSTIGUY: Then why are we
even considering --

UNIDENTIFIED SPEAKER: Okay for
use.

MR. MISHRA: Yes, that is right.
Then it is okay for use.

UNIDENTIFIED SPEAKER: Then what
are we talking about?

MEMBER DAVIS: The TAP was a bit
confusing and I see where you probably got

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

the idea, because there are, TAP talked a lot about synthetic ways of producing calcium chloride. But their mine, their process, is not synthetic.

MEMBER OSTIGUY: Then it doesn't need to be petitioned, does it?

UNIDENTIFIED SPEAKER: Even if it is petitioned, that one is still good.

MEMBER WEISMAN: But is petitioned, it was originally petitioned to be prohibited, except for a particular use. So what he's advocating is that it no longer -- I think the issue here is advocating that it no longer be prohibited, that --

MEMBER DAVIS: Change the annotation.

MEMBER WEISMAN: Or no, actually it shouldn't be -- you're saying that it should not be a prohibited item anymore.

MR. MISHRA: Correct. Because it is also, it is produced similar way as potassium chloride is.

MEMBER OSTIGUY: Well, but you were comparing calcium chloride to potassium chloride.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MR. MISHRA: Correct.

MEMBER OSTIGUY: That comparison, they are two separate materials.

MR. MISHRA: I understand.

MEMBER OSTIGUY: Okay. They are two separate materials.

CHAIR O'RELL: Julie?

MR. MISHRA: My argument is both are produced in similar fashion. Both are mined, pumped from underground, processed as -- we have submitted to you the whole process or system of how we produce it. So you should be consider it like potassium chloride is considered.

CHAIR O'RELL: I have Julie, then Hugh.

MEMBER WEISMAN: Okay. I'm asking questions as crops is not my field of expertise. I'm just curious what percentage of agricultural land in this country is, would you say is salt affected?

MR. MISHRA: If you ask me about, it would be about 15 to 20 percent.

MEMBER WEISMAN: Okay. All right. Because I guess I'm wondering, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

take it this is common practice in conventional agriculture, is to add this to the soil so that it can be, so that salt affected soil becomes arable?

MR. MISHRA: Yes.

MEMBER WEISMAN: But there's not rule that says, I mean, no one here is preventing conventional crops from being grown in this way. We're just saying that organic crops need not. Just the same way there is an issue about whether, you know, if there's not enough rainfall in an area to produce adequate pasture, then the issue has been raised, then maybe cattle shouldn't be grazed there. Maybe that is not a good place for cattle, organic cattle production.

MR. MISHRA: Julie?

MEMBER WEISMAN: So that --

MR. MISHRA: What I'm asking for is to be fairness here. If potassium chloride has been allowed to be considered organic for soil applications, why shouldn't it be for calcium chloride? That's the only fair thing.

CHAIR O'RELL: Hugh?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER KARREMAN: One suggestion, it just kind of reminds me of the ivermectin and moxidectin. If moxidectin is better than the ivermectin for environmental reasons, maybe someone should petition that potassium chloride comes off and calcium chloride comes on. Or if it's natural anyway, I don't see what the petition process was all for.

MEMBER DAVIS: They're different. They're used for different purposes. One would be mainly a potassium supplement, the other is mainly a calcium supplement. But they both contain the chloride ion which is, in my opinion, the bad guy that he mentions about. Everyone's got chlorophobia because they're wondering where is all that ion going, what's the long-term ramifications of continuing leeching through chloride and is that sustainable and is that organic? And that's the, I think the real crux of the issue. It's hard to determine.

MEMBER KARREMAN: Well, I could say that moxidectin actually acts on different parasites than ivermectin does.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER DAVIS: Well, okay.

MEMBER KARREMAN: No, no. I mean, it's the same parallel argument there.

MEMBER ENGELBERT: Suren, there are two other points of view that we have taken on this. And one is that we weren't sure that potassium chloride should be allowed. And we didn't think that two rights make a wrong. The other thing we thought was that the calcium chloride could be applied foliarly in sufficient quantities to correct the plant deficiencies. And we were extremely concerned about the leeching of that chloride down through the soil into the water table. And we didn't want to add to that problem that may already be exacerbated by potassium chloride being allowed. That's part of where we're coming from, besides what else has been mentioned.

MR. MISHRA: Well, I heard that if, you know, potassium chloride, this isn't what you took, was wrong, it doesn't suggest that this isn't what you take for calcium chloride. So we don't as well.

But calcium chloride soil

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

applications is being practiced in other areas in nonorganic crops. Right? And that has never been a problem. I mean, it is commercially sold. So I'm intrigued that why shouldn't it be used in organic applications, if chloride is the only issue.

What percentage of land is being used for organic production? Very small percentage.

CHAIR O'RELL: Okay. I'm going to ask the board, does the board have any specific questions?

MEMBER DAVIS: I don't have any more, myself.

CHAIR O'RELL: Okay. Thank you.

MEMBER DAVIS: I wanted to give him an opportunity to air -- we finally --

CHAIR O'RELL: I understand.

MEMBER DAVIS: -- worked our way around to the core issue.

CHAIR O'RELL: So, is the board satisfied with -- Rigo?

MEMBER DELGADO: Just one question. In that, one of the other factors that we took into account is the actual

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

harmful effect to human health. What is your opinion on that?

MR. MISHRA: Well, harmful effect means, I mean it is any of the high concentration salt. If you are exposed to it, it will hurt, it will affect you. Right?

As far as toxicity is concerned, it is very comparable to salt. So, it is not toxic. And again, MSDS is always applied with them, people who are using it, they operate it. The more fertilizers, the more additives used in the agriculture industry, much more dangerous than calcium chloride.

MEMBER OSTIGUY: But we're not, we're organic, not conventional.

MR. MISHRA: I understand that. I understand that. And again, it is a philosophy. You are considering it organic. So, I'm requesting that simply consider it on par with potassium chloride. That's what I'm requesting.

CHAIR O'RELL: Okay.

MR. MISHRA: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: Thank you. Thank you for your request.

Anthony Pavel? And Jim Pierce is on deck next.

Did you also sign up? Your name is on here twice, once under Tony --

MR. PAVEL: Oh, yes.

CHAIR O'RELL: So it's the same person?

MR. PAVEL: Yes, same person.

CHAIR O'RELL: You're not trying to pull a fast one on us?

MR. PAVEL: No, sir. Just five minutes, please. Do I look like that much of a lawyer, just looking at me?

(Laughter.)

MR. PAVEL: No, just one.

CHAIR O'RELL: Okay. Thank you.

MR. PAVEL: Okay. As you know, I'm a lawyer.

(Laughter.)

MR. PAVEL: My name is Tony Pavel. I actually work with a private firm here in town called Kirkpatrick and Lockhart.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

I'm here on behalf of a client called DSM Food Specialties USA, Inc. On behalf of my client and myself, we would first like to thank you all for your hard work.

Briefly, DSM Food Specialties is a leading producer of value added ingredients in the international food, feed and beverage industry. It produces, the products are enzyme systems, specialty yeast for a number of industries, including baking, beer, wine and fruit processing. So guess what I'm here to talk about?

We have -- all the issues that I want to talk about have been touched on already today, so I'm going to try to be brief and just add what I think hasn't been addressed yet.

We basically have three primary concerns. The first one is the movement of dairy cultures and yeast to 606 as a technical amendment or a technical change. We believe that is, quite frankly, a violation of both the Organic Food Productions Act, as well as the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Administrative Procedures Act. To briefly explain, under the Organic Food Productions Act in Section 6517, it states that before establishing the national list or before making any amendments to the national list, da, da, da, da, the Federal Register -- I'm sorry, the Secretary shall seek public comment on the proposals. We think this is particularly relevant because under the Administrative Procedures Act, you are bound to do that anyway and the drafters found it necessary to put this into the Act again.

Secondly, moving on to the Administrative Procedures Act, under the APA, a federal agency just doesn't have inherent power to correct technical errors in a regulation and they must comply with notice and comment requirements of the APA. Therefore, an administrative rule, it cannot be, under the guise of an interpretation, be modified, revised, amended, or rewritten. And from our perspective, that appears to be what is happening here. There is a new interpretation of yeast as livestock. And because of that, we are making, I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

assuming, this is the logic that's going on, is that because we have, our new position on how we're classifying this product, we are now moving it and it's just a correction, it's not an amendment.

Well, under the established case law, it is an amendment and it is subject to notice and comment rule making.

Next, along those lines, the companies we represent, we work with DSM and we also work with a lot of, a number of enzyme manufacturers, as well as their main trade association, the enzyme technical association. And part of the reason and the purpose behind the administrative procedures act, is to make sure all the stakeholders get a say in changes and amendments to legislative rules. And what is happening here, if we move this as a technical amendment, there were less than 20 days to submit written comments before the October 6th deadline. I brought comments on behalf of my clients today, but you know, our trade association certainly, we haven't been able to get a unanimous review and consider all

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

the issues on this proposal in this 30 day span. And what this is doing is cutting out a large number of stakeholders who are involved in supplying these products and are a part of this industry.

My last point. And this has been covered in many different angles today, so I'll try to be quick. We also have an issue with the definition of yeast as livestock. It is pretty much outside all other conventional definitions.

I'll tell you briefly. My wife grew up on a natural been farm in North Carolina. It was all grass-fed beef. It wasn't quite organic yet, but it was natural. And I ran this by her. I said, honey, what do you think of this? The organic program is moving yeast and they're going to call it livestock. And she looked at me and she said, honey, if I can't castrate it, it's not livestock.

(Laughter.)

MR. PAVEL: So, I'm obviously a very well-behaved husband.

That is all I have to add. Thank

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

you very much for your time and allowing us to speak.

MEMBER OSTIGUY: Kevin?

CHAIR O'RELL: Thank you. Nancy?

MEMBER OSTIGUY: I wanted to say that I actually agree with you, some of the stretching that we've done with livestock. I do research on honey bees. They're considered livestock. I would go along with your wife's definition.

MR. PAVEL: Actually, I brought up chickens to her. I said what about chickens, honey? She said, if it has legs, I can castrate it. So, bees, I guess, they technically have legs, so I'd give it a shot.

MEMBER OSTIGUY: It would be an interesting challenge for her, I'd like to see her do it.

(Laughter.)

MR. PAVEL: I actually have a masters in zoology and one of the professors I worked with, he actually also specialized in bees at the University of Western Ontario, there's a big research center up

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

there. So, I do know a little bit.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: I appreciate your legal opinion. That's -- we'll take notice of that.

What I'd like, if you could, to take back to your trade association, is to let them know that that's where we're headed. We don't know how we're going to get there, but that's where we want to go and certainly, we're going to give time and due consideration and due process to this process.

But if you could take back to them the fact that that's where we're going with this and we hope to get their support in helping us to figure out a way to actually help them enter a profitable marketplace and seek ways for their associations and their manufacturers to help us create standards, so that we can have organic products from that trade association and DSM, in particular.

MR. PAVEL: Thank you. And we have, basically, we have advised them that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

this is going to happen and, you know, generally speaking, quite frankly, they're onboard with it. And their objection really is the procedural that we cannot come up with organic yeast in 26 or 20 days. And they understand that there is going to be a demand and this is the direction that it's moving and they just want the ability to provide their input and their industry expertise into how these products are going to be developed and marketed.

CHAIR O'RELL: Thank you.

MR. PAVEL: Thank you very much.

CHAIR O'RELL: Thank you.

Jim Pierce? And next up would be Leslie, Leslie Zuck.

MR. PIERCE: Thanks, Tony for warming them up. I raise fish and I'm not sure I can castrate them.

MEMBER OSTIGUY: They don't have legs.

MR. PIERCE: They don't have legs.

For the record, I'm Jim Pierce, Certification Czar at Organic Valley and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

it's my great pleasure to represent my 875
farmer owner bosses and offer you this
public comment to partake in this most
American tradition in this, our nation's
capitol.

For the nearly half score of
years of these offerings, I have become
known, for better or worse, for blending
humor, even sarcasm, with what I've always
liked to believe was wisdom, insight, and
criticism, always constructive. Today, I
will offer you several comments on several
topics pertaining to your posted
recommendations, offer you kudos where you
hit the target, and solutions were you are
amiss.

For a change, I'm not going to
talk about access to pasture or dairy
replacement. I'm not going to discuss this
recently posted animal, dairy animal
acquisition table or what we finally
referred to as the eight-track dairy
replacement table. Most of us are old
enough to remember eight tracks and they
were inferior even when they were state-of-

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

the-art.

(Laughter.)

MR. PIERCE: I still have a few eight tracks around and I don't use them. This is Abbott and Costello silly. And if the consequences weren't so dramatic, it would be a lot funnier. No, you didn't write, no you don't agree with it in principle or in practice, but you are guarding the gate and you must do something about it. But I'm not going to talk about that.

On the topic of Ag versus Non-ag, thank you for biting off this mouthful. Your proposal is a great start, but only that and I suspect you realize that by the comments. Keep the iron hot, forging away.

With the addition of microorganisms to 605, the technical correction might be to remove dairy cultures and yeast, since they are redundant. Not that there isn't plenty of redundancy in the NOP and in Washington.

If you decide it appropriate to move items from 605 to 606, consider all the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

possibilities and consequences, heed the advice of your peers, Gwendolyn Wyard from OTCO and Emily Rosen Brown from PCO, in particular, have offered excellent feedback.

Regarding commercial availability, I don't want to pressure you, but June is eight months away and this is huge. I find it interesting that the Handling Committee puts a minor role on the NOSB and NOP in determining commercial availability and the Crops Committee states, "The NOP does not have the obligation to maintain a list."

I agree with the Crops Committee. It's your responsibility to get everything added to the list soon. It's the certifiers' responsibility to make sure that their clients are sourcing organic when it's available. The Certification Accreditation and Compliance Committee have three recommendations pertaining to certificates.

Thank you for continuing work on these important, if not world-changing issues if, for no other reason, that it's one that I have strong opinions on.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

Being Czar isn't all glamorous, you know. In my spacious, mahogany-lined office, on the top floor, next to George's office, overlooking the moat, I'm responsible for maintaining over 1,000 organic certificates as current. So, it's with shower drain clogging experience that I agree that organic certificates do need to be standardized.

You're almost perfect in your recommendations. Let me suggest that as part of your proposed rule change, you publish a template that certifiers can follow. The most successful certificates for us have certified entity information followed by product listing. For larger, more diverse operations, they are typically listed as an addendum.

This recommendation proposed standardizing production terms, or product terms. No easy task. We see essentially useless certificates listing cheese or vegetables and, at the same time, we see manifesto certificates listing every herb in every form known to man. I suggest linking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

the list to actual labels, whenever possible. Certificates also need to show the category 100 percent organic or made with, in order to have real value. Good luck figuring out how to list dairy cows for resale.

The proposal to put expiration dates back on certificates concerns me. I'm not sure your recommendation adequately dovetails an expiration date with certification is continuous until surrendered, suspended or revoked. As you wrestle with that, think of me collecting 1,000 certificates every year and then saving them for five years. Right now, today, we document the vast majority of those 1,000 certificates as current through ACA databases. The panaceaic wave of the wand solution is that certifiers web databases and the long-promised NOP E-cert database compliment each other like Fred and Ginger, giving me more time to study the view.

The proposal regarding the USDA's private label questions is solid and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

workable. My only concern is that the recommendation admits that the identity of the co-packer may become invisible to the consumer. Since some day I hope to see a thesaurus link between organic and transparent, this runs counter to that goal.

Five minutes mercifully limits comments to general and not specific. So, let me extend an invitation to explore the dirty details anytime. You can call me in cubicle in the basement.

(Timer sounds.)

MR. PIERCE: Thank you.

CHAIR O'RELL: Thank you, Jim.

Any questions?

MEMBER DAVIS: I have a question.

CHAIR O'RELL: Gerry.

MEMBER DAVIS: The last comment you made about the co-packer or the grower, you know, like ala Earthbound, where they have a lot of growers sending their product to a large packer, not being able to trace it back down to where it came from and so forth, when they have a problem, how did we get there, as far as leaving that vital

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

information off of the label?

MR. PIERCE: I think that's an inevitable development of market, of markets and production as it expands. We do a lot of private labeling as well and I know we do private labeling for companies that also source the same product from other manufacturers. So, a consumer looks at it and doesn't know for sure if it's from east coast or west coast or what. If this proposal, however, is solid in that if a consumer wants to look into it and call that certifier, the final certifier, whether it's the handler or the certified retailer merchandiser, they can ferret that information out. Date coding and such will lead them back. I mean, the really concerned consumer will get an answer, I believe. So, you're all right with that.

CHAIR O'RELL: Yes, Kevin?

MEMBER ENGELBERT: As the Certification Czar, Jim, and your concern about expiration dates on certificates, we've also heard that they're needed to verify that they're valid and up-to-date.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

What's your opinion on a different type of date, like --

MR. PIERCE: I heard that as well.

MEMBER ENGELBERT: -- a renewal date or an effective date or something like that, that doesn't technically expire. It just lets the person looking at the certificate know that there is a yearly inspection and date and when it's renewed?

MR. PIERCE: Well, a couple of comments and then I'm sure you'll wrestle with this as you deal with those recommendations.

You're hearing a lot from inspectors and trainers that dates are more needed but you're not hearing that so much from the accredited certifiers and the end users like myself. It took us quite a while to get used to not having dates on a certificate. At first, it was very awkward, but we really have come up with a very workable system to work with the certifiers and make sure that everything's current.

Now, another thing that you're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

also hearing is that, what if we, if the certificates are issued fraudulently, in other words, if they're not current and they're still represented as current, well that's fraud. You have rules for that. That's not right. You know, or if they're modified or worked in Photoshop or something. That cannot be.

We still collect a lot of paper every year but there is a lot of opportunity in those 1,000 certificates where hundreds of them at one time can be verified as current, or those few that are suspended or facing suspension can be weeded out quickly and isolated and the rest of them, basically rubber stamped, documented in good standing until we hear otherwise.

Does that help?

MEMBER ENGELBERT: Yes.

MR. PIERCE: Probably not.

MEMBER ENGELBERT: Well, I'm concerned about just, for example, a small farmer's market where someone has certified their products. They post their certification but there's no date on it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

And if they don't reapply for certification and the consumer comes up, sees their certificate and says, well, they're certified, buys their product, and this goes on and on.

But if there isn't some type of date on there of some sort, I'm concerned about that.

MR. PIERCE: Yes, well if they're showing that certificate at a farmer's market, it better be current, or it's fraud. And if the consumer again, you know, really needs to know it, they can check either with a website or a phone call and find out that they're current and in good standing.

MEMBER ENGELBERT: Most consumers won't do that.

MR. PIERCE: No, most won't. They're going to take it at face value and it has to be offered legitimately at face value.

I'll let you move on, unless there's other questions.

CHAIR O'RELL: Bea?

MEMBER JAMES: Jim, your comments

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

are, I enjoy even the humor. You know, I get the substance in between all of that and I could not find your comments posted on the website. They're not under accreditation. Did you submit your --

MR. PIERCE: No, the comments that I just read, I gave one copy for the record. Otherwise, I don't want to distract you with paper, you know.

CHAIR O'RELL: That's smart because we're all a little ADD up here, so -
-

MR. PIERCE: Yes, I didn't put them up on the website, the more detailed ones.

MEMBER JAMES: Okay.

MR. PIERCE: But probably following the discussions here, there will be more specific recommendations put up.

MEMBER JAMES: Okay.

CHAIR O'RELL: Okay. Thank you, Jim.

MR. PIERCE: All right.

CHAIR O'RELL: Leslie? And Erin James is next on deck.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MS. ZUCK: I'm going to be speaking for Erin, so I'll have --

CHAIR O'RELL: Oh, so you have ten minutes. Okay. Thank you.

MS. ZUCK: I'll have some of the same things to say as Jim did, but not as humorously, unfortunately.

I'm Leslie Zuck, Executive Director of Pennsylvania Certified Organic. And I'm commenting on the recommendations from the Certification, Accreditation and Compliance Committee regarding standardized certificates and expiration dates.

I agree that there are many types of certificates and styles. I agree that the content claim to which a product is certified must be listed on the certificate. I agree that approved foreign certification, foreign accreditation programs, must specify that the operation complies with the NOP standards, which we have to do, too.

So, I do not agree that individual products, fields, etcetera should be listed on the certificate. I believe this is best handled by a separate document,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

for a variety of reasons. In some operations, the list could be several pages long and it changes on a monthly basis. Many certifiers have -- sorry. I can't see my paper because this thing is in the way.

Many certifiers have a fairly rigid process for processing certificates and they often have to be signed by the CEO of the organization or in state programs, they have to go through the Secretary of Agriculture. So, every time you change the certificate, you have to send it up to the top and somebody's got to take the time to make sure that the whole process has been followed properly. So, you know, that's one of the reasons we have the separate document, which is a little more flexible, but still works to provide all the information necessary.

You know, having to issue five, ten, or 50 new certificates throughout the year is cumbersome, burdensome, and confusing. It's really not uncommon for a distributor of organic packaged products to actually change their product line weekly.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

And some cooperatives and feed mills do the same thing. So, a separate controlled document that can be issued by the certification program, when requested by the client, works much more smoothly. And we've had no problems with the system in the seven years we've been using it.

It also solves the expiration date problem, as a separate organic product verification form includes a specific effective period on that. So the producer gets one of those. We call it organic product verification form, or OPV, every year.

I also am concerned that it will be nearly impossible to have a list of standardized terms to cover all the diverse products in the vast organic marketplace. I question how specific you would like us to be. You know, we talked about that. Is the word vegetables enough? Can we say kale or do we need to say red Russian kale? And you know, we've kind of come up with a solution to this problem, too. You know, we've noticed that a lot of the growers that have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

many varieties and we could have some that would have 20 page certificates. And if it's on the certificate, every time they change that, we're going to have to change that 20 pages and print it out again out of the printer. And my staff reminds me that the certificate paper is very expensive. So, here we are in the paperwork justification issue that Mark Bradley was talking about earlier.

And you know, it turns out that really, that specific information isn't really necessary for the vast majority of our producers. If they're feeding all their crops to their dairy cows, they don't have to have their certificate changed if they decide to plant spelt instead of wheat, because it's just going to be fed to their cows. The same thing with the farmer's market producers. You know, they're selling all their stuff retail at the farmer's market. Does it really matter if their certificate says Austrian crescent fingerling potatoes or Yukon gold potatoes?

But, on the other hand, we can

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

provide that information through our organic product verification form because it's very flexible. So, if a producer tells us that their buyer needs a certificate to say, you know, red raspberry jam, instead of raspberry jam, we can put it on there for them. And that works really well.

So, you know, in some cases, we put the whole line of brand names on there for people who need to have that on there. And that's a document that's generated from our system, it comes right out of our database, it's signed by the certification director and faxed over, sort of like a TC, whenever somebody needs it, to close a transaction. So, it works real great and we have had no problems with it. Our producers seem to appreciate it.

So, and I agree with Lynn Coody that the certificates should be in English. It's really hard to find translators in some of our rural offices out there in the Hinterlands.

And so, also, about the standardized forms. The form itself, I feel

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

like, you know, going into the, you want to add Section C(2) and (3) and, you know, I think those requirements are way too specific, the eight and a half by eleven paper, again, is not something that internationally is really recognized and you say you want things listed in a certain order, but it just says in order. We don't know if that means left to right, or top to bottom, or right to left if you're writing in Hebrew, or something like that.

So, we could solve some of those problems, I think, by having an actual, I mean, if you want a standardized certificate, let's do it for real. Let's have a form that is a federally, you know, a federal program form, like we do for export certificates. They're instantly recognized, they're completely uniform. We just fill in the boxes and it's done. And we can have one for the certificate and one for the product verification. And if a certifier would also like to have their own certificate as sort of a marketing thing, they could still do that. I mean, you could

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

have a piece of paper that has the trademark or something of the certifier, that they could hang on their wall that, you know, looks nice and in color and all that.

But I'm in favor, if we really want to do this for real, we should do it for real. Just give us these forms, we'll fill them out and, you know, go on with the rest o four business instead of having to figure out how to comply with all the restrictions and three inches at the bottom of the page and such and we could just go forward and talk about other things.

The expiration dates. I had a board meeting on Monday, board of directors meeting and they said, what's going on with expiration dates? I thought we had that all solved. And you know, seven years ago, we all screamed and yelled and begged to the Program to please let us put expiration dates on the certificates because, you know, people need to know when they expired. It just seemed really simple. And they told us no way.

And now seven years later, we've

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

finally gotten all of our clients to understand that they're getting their certificate for life and please put it in a safe place because you're not going to get another -- our letter actually says that, you know. Please keep this, hold on to this. It's the only one you're ever going to get. And so, to turn around now and tell them, whoops, make sure you get a new certificate every year because we changed our mind about that.

You know, so it seems to me rather than reversing that mind-set of both certifiers and clients and having to go down that road, maybe we could just ask the Program to reverse their interpretation of the rule. Because the rule language doesn't prohibit us from having an expiration date on a certificate. So, if they could just sort of reinterpret it and say, okay, certifiers, you can put an expiration date on the certificate if you want to. And you can put an effective date on the certificate if you want to. If that works in your program and that's the way you want to do it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

then, you know, go ahead. We've given you the -- we're allowing you to do that now.

So, that's really all I have to say. Any questions?

CHAIR O'RELL: Thank you, Leslie.
Bea?

MEMBER JAMES: Leslie, explain to me what, you know, what is the main point of having, I mean I know, but I just want to hear it from you, what is the main point for having an expiration date on a certificate?

MS. ZUCK: This is a test.

MEMBER JAMES: Of all the different types of certification that there is out there and the different types of categories of certificates that you give out, farm, handler, processor, what is the main benefit of having that expiration date on the certificate?

MS. ZUCK: Well, when Jim Pierce calls us up and says, I need to know if this list of people who produce milk and ship it to Organic Valley are currently certified by your agency, then we fax over the organic product verifications and he looks at them

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

and he sees how close they are to expiring or how, you know, how long they're good for. And they're good for a year, usually -- actually, which is another question I have for you, about the recommendation on the standardized certificates, or is that on the expiration date ones? It says that it should have an effective date on the certificate, but it doesn't say whether that has to be a year or it can be less than a year or more than a year or whether the effective period can be anything. Because right now, sometimes, people do get a short-term organic product verification that's only for a few months because they have to send in additional documents before they can get a -- to certify another field or something like that. So, that was unclear to me as to whether it's supposed to be for a year or --

MEMBER JAMES: Okay. I'll let Andrea address that or Joe.

But I just want to, I want to understand. So, Organic Valley then would benefit from having an optional expiration

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

date? You know, that say they have to, say somebody has to go out and try to figure out whether something has expired or it's not expired. Wouldn't it be easier to have it be one way, so you know what the protocol was for how to handle the expiration of a certificate?

MS. ZUCK: Well, that's why I was thinking, advocating having a real standardized certificate. But Organic Valley and other certifiers who also ask for, we ask for certificates amongst ourselves too, you know -- well, actually, we look for certificates from people who have sourced product, that's certified by another certifier, so we need to find out that, or as our client does. And they don't really care if it's on the certificate, or if it's on a separate document, or if it's, you know, -- we tried to get away from the letter of compliance because you have this letter that's actually in letter form and you had to read down through it and see all what they were trying to say. So we kind of, our organic product verification, it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

looks like a certificate, it kind of acts like a certificate but it's just more flexible than a standardized certificate. We can put lots of things on it or not a lot of things on it.

MEMBER JAMES: So, I could just, you know, get into philosophical discussion about this forever, but I'll just let it go.

I guess the point I'm trying to make is that I don't really see the benefit of having a wishy-washy determination that is just made, you can put the expiration date on there if you want to, or if you don't want to, you don't have to. So, that's the point I'm trying to make.

MS. ZUCK: Oh, I see. I mean, the certifiers all do that, because if they didn't do that, if they didn't have something on something somewhere on some document, their clients aren't going to want to get certified by them because they can't show to their market that they are in good standing. So if a certifier is not willing to produce that on a document, --

MEMBER JAMES: Right. And they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

are out there.

The other thing that I was going to ask is, is it possible for you to submit what that form would look like that you would want the NOP to come up with?

MS. ZUCK: Oh, I think we would be really happy to work on that. Because we would rather kind of help produce that and draft that than to have it sort of, you know, posted and have to figure it out after the fact. So, I think that most of us, certifiers and ACA would really be happy to look at a draft or help figure out what should be on there and what's too much and what isn't enough. And just to make sure the boxes are big enough to put in everything we need to put in, which is sometimes a problem with federal forms.

CHAIR O'RELL: Are there any other questions for -- Hugh?

MEMBER KARREMAN: Just a comment. I want to say that I think the industry really needs those standardized forms with expiration dates. Because a first-hand experience a few weeks ago at the organic

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

consignment sale we had, with the livestock and dairy --

MS. ZUCK: I wish I could have been there.

MEMBER KARREMAN: It was fun. But it was a really major headache for the auctioneer, and myself, and the farmer and one of the other people involved, to look at, I think it was five or six different certifiers certification papers. And we had to just look all over the paper and just find, you know --

MS. ZUCK: Which box it was in.

MEMBER KARREMAN: -- it should be like my eyes should go there to see, you know. We've got to have standardization and expiration dates. Because that was a major headache, as a first-time user. Now, Jim Pierce might now exactly where to look on all of them, but not for us in the field.

CHAIR O'RELL: Any other questions? Thank you, Leslie.

MS. ZUCK: Thank you guys.

CHAIR O'RELL: Judy Ellis is up. And next on deck is Kim Dietz.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Judy Ellis? Oh, okay. Sorry, we didn't give you an on deck one because Leslie had a proxy, so it knocked a name off.

MS. ELLIS: Oh, okay. Originally I had been listening to you. I have no corporate affiliation. I've been listening about the microorganisms and redefining them from Sections 605 to 606 and I think I'm beginning to understand.

It sounds like that it would be in the best interest of the land, and the animals, and people for yeast and certain microorganisms to be moved into that category of 606, because then you'd be able to use organically grown yeast for the livestock and -- do I understand correctly?

It also sound like it's not possibly in the best interest of some companies for it to move, for maybe financial reasons, I don't know.

Because the question that I had was would it be possible to create a subcategory in Section 606 that would, oh, I have it written down, that would accommodate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

organically grown microorganisms as agricultural, because they're not animals, they're not livestock, and they're not plant.

So, I just wondered if that's a possibility. Did I ask that well?

CHAIR O'RELL: That's fine, Judy. Certainly, you know, part of the process in moving forward, the board spends a lot of time wrestling with evaluations. A lot of these questions that are coming up from the public forum today in discussion are things we've discussed among ourselves on the committee level. We make a recommendation to get something out in the public. We wish this one would have had a little more time, posted for a longer time to have more public input, but I think we're getting the gist of public input now and we'll be digesting that and looking towards a recommendation and trying to see how we craft something going forward that takes into consideration a lot of the points that have been brought up today. So yes, it could go to a point where you add a different provision in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

standards for handling all microorganisms.
We have discussed that as a possibility as well.

So, your point is well taken with the board. We do think that we have some work in the committee level for that recommendation.

MS. ELLIS: Also, I would like to thank you all for doing this. As a consumer, I really appreciate your thought and your effort to try to make the organic movement as pure as possible.

CHAIR O'RELL: Well, thank you. And one of the goals in crafting a recommendation was moving forward to try and pioneer new ground and extend organic agriculture to other fields to have additional organic agriculture use.

So, thank you for your compliment.

MS. ELLIS: Thank you.

CHAIR O'RELL: Kim, oh yes.
Okay.

MS. DIETZ: Here I am.

CHAIR O'RELL: On deck is Brian

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Cricket Rikita.

Kim, do you have a proxy or are you just five minutes?

MS. DIETZ: I'm just me.

CHAIR O'RELL: Oh, thank you.

MS. DIETZ: Okay. And my comments are not written, but I will certainly submit them to you so you can get them into the board.

Good afternoon. My name is Kim Dietz and I'm here today giving you public comment as an individual and not those of my employer. I served on the NOSB from 2000 to 2005, as a handler representative, three of which were as materials chair and my final year as secretary on the board.

I will be giving comments today on the handling recommendations and materials, along with general observations as an industry leader.

Colors. At the last NOSB meeting, I stood before you giving you a historical background on colors and pleading with you for a recommendation on a deferral are not materials so that the proper process

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

could be followed and the procedures for petitioning and the board voting on that material. I agree and support your recommendation not to renew colors under the sunset provision. I think you did the right thing.

That being said, I'm very concerned that there are several petitions for colors currently under NOP review, all of which are for inclusion under 205.606. I urge you to quickly review these petitions, send them back, if they're not sufficient, then make sure those materials are brought before this board, prior to the removal of colors under the sunset provision. I also urge the NOP to immediately notify these petitioners of any proposed changes to the petition process so that there is not disruption to this industry. The goal of all of you, NOP and NOSB, should be a smooth transition for removing colors under sunset and try to possibly reclassify under the petition process.

Agriculture/non-agriculture. You heard a lot of comment today, I've cut and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

pasted all morning and afternoon.

Basically, as you know, this has been a project that this board and previous boards have struggled with for years and years. I thank you for attempting to bring a recommendation to the table.

I do not agree and cannot support the use of the decision tree to assist in determining the Ag and Non-ag. I think it needs some work, as you've heard all morning. Specifically, I suggest in step three, the words result of a mechanical or physical be deleted. We have a definition of processing. Processes are allowed. Heating is a process, baking is a process, all of which result in a chemical change. So, be sure to protect that.

Lastly, several ingredients have been identified in the background information of this recommendation that could have potential conflict with the definitions. If this is the case, then I urge you to reconsider these recommendations until the ramifications of the decisions are fully understood. Please do not push

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

through a recommendation unless it is well understood by all parties.

Commercial availability. I agree with this document. I urge you to expedite those petitions currently under review for 205.606 and contact the petition so they may include the new information to devote on it, under the petition process. We all know that the deadline of June 9, 2007 is rapidly approaching. I recommend the USDA schedule another NOSB meeting as soon as possible, to ensure timely review of these materials. As we all know, materials can take two to five years to be placed on the national list.

I urge you to keep this process simple under 606, don't bog it down by incorporating unnecessary steps, look at how you reviewed with the sunset materials, try to streamline the process and don't include anything that you don't need to do in the reviewing of these materials.

I don't have an opinion, either way, on the addition of including current industry information regarding availability. This information is currently required by

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

handlers, we have to provide it to our certification agencies.

I will say that prior board members have discussed this issue and we felt that we would not need to see industry information because one, we didn't feel it was the role of the NOSB to validate supplier information and two, nobody's mentioned this all day, I'm surprised, you have confidential business information, folks. I'm not sure many handlers are going to want you to know who their vendors, or more specifically, the public. So, there's some confidential business information that may or may not even be accessible to the board. We have had those deleted from petitions in the past.

So, don't expect handlers to freely supply you with their supplier information, especially if it's a tight market for raw material.

Lastly, I acknowledge the amount of time and work that this board has done since the last NOSB meeting --

(Timer sounds.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CHAIR O'RELL: You can finish your thought. Especially, since it started out good.

(Laughter.)

MS. DIETZ: As a past member, and more importantly, as past materials chair, I need to express my concern that the materials review process is behind schedule. This is no reflection on the current materials chair, rather as a result of a high NOSB turnover rate, Harvey, and a mentoring program that has failed.

When I was materials chair, I stepped aside so that I could mentor the next chair in my final year on the board. I did this because I believed in training and supporting my successor. Several times, I discussed this recommendation to formally include the succession plan in the board policy manual. I was discouraged to formally put it in writing, but I encourage you to do that. I think it's very difficult for new chairs to step in and have never had done the process.

And lastly -- I'm just doing to -

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

-

CHAIR O'RELL: Well --

MS. DIETZ: I have some kudos. It's for you. I wanted to thank you and Nancy and Mike for your service on the board. I know that the last five years, we've had our ups and downs and there's times when you just want to walk away from it. But I thank you for your perseverance because I really think you guys have really done a great job.

CHAIR O'RELL: Thank you, Kim.

MS. DIETZ: You're welcome.

CHAIR O'RELL: And you know, we are going to take you up on your offer to help us a little bit on the material issue. And thank you for that.

Andrea?

MEMBER CAROE: Just a real quick clarification. On our recommendation for 606 petitioning, what the board function is is not to assess whether it's commercially available or not but to do a risk assessment of the possibility that this might become unavailable. So, as far as confidential

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

business information, I don't suspect we'll be seeing any of that. We'll seeing information about crop failures, global supply, more broader.

And again, in order for us to do our due diligence in putting the material on the list, we felt we needed to do that type of risk assessment. And then that detailed confidential business information would be assessed at the certifier level, much like you're already doing today.

MS. DIETZ: Yes, I thought I just heard earlier the comment that you could now develop a list and, you know, who's got what and that sort of thing. And I don't think it will happen at that level.

MEMBER CAROE: No, that is not our intention.

MS. DIETZ: Yes, like I said, I'm not attached to either one, but there will be confidential business that people are not willing to share.

CHAIR O'RELL: Thank you, Kim.

Brian? And then last on deck is Patricia Kane.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MR. RIKITA: Hello. My name is Brian Rikita. Folks generally call me Cricket. I work for the Carolina Farm Stewardship Association and I coordinate organic seed projects in the southeast and a number of other things I'm going to talk about.

The first thing I want to say is that I believe that the time is coming when the rules, I believe that the time can be seen when the rules on using nonorganic seed can be tightened up. I think that the seeds are available. There are still some quality issues, particularly with genopods I've seen and a few other things. But I think that those are quickly being taken care of right now, I believe. And I believe that organic growers can use organic seed, from what I've seen. I haven't worked in all regions of the country. I'm southeast.

One thing I'd like to talk about, we've set up a program that's kind of an alternative to the OMRI organic seed list and I'd like to just let you folks know what we have available on our list. It's folks

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

give us a list, we call them the seed wish lists that they're looking for. They generally do it through our website. Very often they call me directly or mail me or fax me and they let me know what types of seeds they're looking for, sort of in organic form. And we get back to them with a document that has a complete list of all of the organic -- we maintain a database of all of the organic dealers, seed dealers, very complete and I do a lot of research on it, as opposed to OMRI's list which only lists the dealers that find them and choose to be paid. I seek people out, get their information, anyone that has it publicly available. And I'm not going to say it's complete, but I work hard to keep it as close to that as possible.

And then also we, as of January first, we're going to also be introducing the commercial equivalents to what we do, where we just ask the dealers to list what they believe these varieties may be commercially equivalent to. It's their opinions, but that may be helpful to some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

growers who are looking for something. When a grower comes to us with their organic seed wish list, then we reply to them with a list of all the companies that we've searched, so that they can see it was a diligent list. And then we also give them a list of the seeds that we were able to find and from where we were able to find them. And if we were not able to find something that they were looking for, we'd give them that information as well.

Yes, and the generally, we generally turn these lists around to folks in two days. It's not as quick as the OMRI list. What I do, very often, I'll open the books, like the catalogues, and actually look. Folks will ask me, well, I need a field corn that's ripe in fewer than 90 days that, you know, that is bi-color, or white, or whatever they're looking for. And if I don't have it exactly categorized the way they ask me in the database, I actually open the books and go into that.

And that's available to anybody in the world, really. I'll do that service

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

for them. I track all the seeds that I'm able to find organically available in this country.

So, I wanted to let you all know that that service is out there to help folks find the organic seeds that they're looking for. And I can say that when I do this work, I generally am able to find people more seeds than they expected I was able to find them. And I think that if folks are at least willing to try growing the seeds that are available organically, they'll find that in a very short time, they can transition to using organic seeds. Which I think, both for the open pollinated and for the hybrid world of seed production, is very important because I believe that --

I mean, I'm a seedsman by training. And that's what I do. And I've been organic since before it was a law. But one of the things that I believe is important for organic seeds, yes I'll hurry up, is that the seeds be selected for in an organic environment, and ideally, in a microclimate similar to that they're going

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

to be intended to be grown in. Well, that's a separate issue though, but in an organic environment for seeds that will do well in an organic environment, the selection is my religion, basically.

So, anyhow, that's all I have to talk to you all about, but if you have any questions, or if you don't, or whichever.

CHAIR O'RELL: Thank you, Brian.
Gerry?

MEMBER DAVIS: What's your website?

MR. RIKITA: Okay. Right now -- the website is going to move very soon. Right now it's at www.savingourseed.org but on January first or sometime shortly before, it will move to www.organicseedsourcing.com. You go to savingourseed.org and click on the sourcing link.

MEMBER DAVIS: You're going commercial.

MR. RIKITA: Well, the way we're keeping this service free is that we're selling, when we give people these documents back, as I said, we actually send them back

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

a document that has all the documentation in it, and we're selling advertising in those documents, in order to fund it.

CHAIR O'RELL: Any other questions?

Thank you, Brian. I appreciate your comments.

MR. RIKITA: Yes. You all have a good day.

CHAIR O'RELL: Thank you.

Patricia Kane?

MS. KANE: Good afternoon. My name is Patricia Kane. I'm the coordinator of the Accredited Certifiers Association. It's an association of 29 accredited certifying agencies and we would like to thank the certification accreditation and compliance committee of the National Organic Standards Board for their work in bringing forward the issue of expiration dates on organic certificates.

The ACA supports the concept of a dated organic certificate which allows for determination that a certificate is in good standing. Our members, however, do not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

support the use of an expiration date. Our members do support the use of terminology such as annual update or current certificate issue date, which provides information that the certificate is a current valid certificate. Along with the addition of language supporting a current date on the certificate, a definition of this term should also be included. The term current certificate issue date could be defined to mean that the annual update of the certified party has been submitted, the certifying agent has reviewed the updated information, the inspection has been completed, the certification agent has determined that the applicant is complying with the Act, and the date would reflect the date of certifier determination that the applicant is complying with the Act.

The use of such a date in definition would provide confidence to all that the certificate is a current, valid certificate. The lack of this information on an organic certificate is problematic for certification agencies, organic inspectors,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

and the purchasing departments of companies seeking to source organic ingredients.

A rule change to require the use of letters of continuation is not necessary, as the annual update is already required and no expiration date will be listed.

Certifiers have existing systems to address timely annual review and must complete inspection and the approval within 18 months of the annual date of renewal.

We thank the National Organic Standards Board for the opportunity to comment on this recommendation.

I would also like to comment on standardized certificates. The ACA supports the concept of standardizing the information contained in an organic certificate, as this will provide information necessary to conduct a review of the document. ACA members do not support the requirement for the listing of crops and products certified, as the recommendation did not provide enough detail regarding the specifics of this requirement.

Our members feel that this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433

requirement should be left to the discretion of the producers, in consultation with the certification agent. Some producers may need a detailed list of crops or products for their markets. Others may sell at farmers markets or through community supported agriculture plans, where they do not need the detailed list of crops.

Our members also feel that Section C of recommendation dealing with paper sizes and margins is too prescriptive and cannot apply to all producers, due to the amount and type of products being produced. Larger producers requiring a complete crop listing, will require one, possibly two, more pages for the certificate. The use of addendum pages to certificates is a current practice by certifiers.

In the case of multiple page certificates, it should be permitted to add the following statement to the first page of the certificate. "See attached addendum for additional information." The addition of this statement will indicate to reviewers or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

product purchasers that additional information is included in the certificate.

We thank the National Organic Standards Board for the opportunity to comment on this recommendation.

CHAIR O'RELL: Thank you, Patricia.

Hugh has a comment or a question. A question, I hope.

MEMBER KARREMAN: Just a question. Why are you not in favor of the expiration date?

Just back to this organic cattle auction we had, it would have been very, very helpful to have an expiration date because we had to call some certifiers to see if the person who sent in the cattle was still certified and it just went on and on. But why wouldn't you want expiration dates?

MS. KANE: Our members were in favor of a date but not necessarily expiration date.

MEMBER KARREMAN: But then the problem was, you know, there was a date let's say a year and a half ago, --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MS. KANE: Well, it would be --

MEMBER KARREMAN: -- you're assuming it's a year long, annual update, that's the assumption.

MS. KANE: It would be, the current certificate issue date would be an annual date.

MEMBER KARREMAN: Is that the same as an organic product verification type paper?

MS. KANE: It could be, yes.

MEMBER KARREMAN: I like expiration dates.

CHAIR O'RELL: Joe?

MEMBER SMILLIE: It says ACA members do not support the requirement for the listing of crops and products certified. Is that what you mean or do you mean that --

MS. KANE: Because there was a lack of specificity in the requirement of how detailed it was to be.

MEMBER SMILLIE: But then you go on to say that some people need real specific stuff --

MS. KANE: That's correct --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MEMBER SMILLIE: -- and other
people --

MS. KANE: -- but it should be
left to the discretion of the producer and
the certifier.

MEMBER SMILLIE: But there should
be some listing of crops and products.

MS. KANE: Correct, yes.

CHAIR O'RELL: Bea?

MEMBER JAMES: Okay. You support
the concept of a dated organic certificate.
Explain to me what that would look like on
the certificate.

MS. KANE: It could either be the
terminology annual update or, as we included
here, the current certificate issue date.
It wouldn't -- it's just the term expiration
date would not be used.

MEMBER JAMES: Okay. So, the
issue date could be three years old?

MS. KANE: No, it would be tied
to the annual update of the producer. The
current certificate issue date.

MEMBER JAMES: Okay.

MEMBER DAVIS: Is that because

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

it's understood that there's an annual renewal, --

MS. KANE: Right.

MEMBER DAVIS -- it's just built into the regulations and everything. Right?

MS. KANE: That's where the definitions of A, B, C and D need come in.

MEMBER KARREMAN: But someone said there might be a certificate for two or three months. Didn't someone say that, in a previous presentation, and then how would you know, how would --

MS. KANE: The date would change. That date would change.

MEMBER KARREMAN: It seems confusing.

MEMBER JAMES: So every year, you send out a new certificate. Is that what you're saying?

MS. KANE: Yes, that's what certifiers do. Some. That's what some do.

CHAIR O'RELL: Andrea?

MEMBER CAROE: Well, in order to do that, in order for that issue date to be effective, then we would have to have a rule

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

change that requires that a certificate be printed every year because that's now part of the regulation right now. So, I mean, and then it doesn't get to Jim Pierce's dilemma that he would have to replace certificates on file.

So, I'm not sure that this gets us any closer. I don't, I'm trying to see the benefit of not using the word expiration. What difference does it make? I mean we're still -- you know, the issues that I'm hearing come up don't get resolved by this solution. So --

MS. KANE: Well, the issue of expiration, what came directly from the prohibition from using the word, using the expiration date on the certificate. And these were other scenarios to get around that.

MEMBER CAROE: I mean, I was there with you and everybody else commenting on those early days when expiration dates we were told, you know, they were verboten. But we have been approached by the Program because of the inability to, in any time

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

soon, put in this master database to provide this as a tool that's necessary, in order to show some recent compliance, you know, it's not real-time, but it is recent compliance.

So, you know, this is a revisiting. This is, I agree, it's a change of heart. But to get to the crux of what we need to do --

MS. KANE: Well, these are two variations on what certifiers are currently doing. And those systems seem to work, to some degree.

MEMBER JAMES: I wasn't there in those early days. So explain to me, what is the skull and cross bone around expiration dates? Why is that, what is the problem with that?

UNIDENTIFIED SPEAKER: The Program said no.

MEMBER JAMES: I know, but --

MS. KANE: Because certification doesn't expire until suspended, revoked, or surrendered. So, you couldn't use the word expire.

CHAIR O'RELL: Mark?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

MR. BRADLEY: I wasn't here then either, but I asked the question and I was one that was in support of having an expiration date, just because of the compliance issues that we were running into, lots of fraud, using certificates that were produced several years ago and then they just don't expire and they show up in the Middle East in loads of product that had never been certified.

But the way I understand it, the problem was that if certifiers are not able to administratively handle this annual update that's required from certification certificates that expire, then they run into the problem where they haven't administratively removed certification, they haven't done anything wrong, but the certifier wasn't able to keep up with it. So that is the thing that the program had in place when they said that, you know, it's certification for life, until you take it away.

CHAIR O'RELL: Thank you. Thank you, Patricia.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Yes, we're going to recess. We don't need a motion for recess.

We kept pretty much on time. Thank you very much. I appreciate the public comments, people who signed up today. I don't think we missed anybody's name on the list. There was one individual that didn't come up but I haven't heard from them. So, we'll reconvene tomorrow at 8:00 in the morning, where we will start the committee work in terms of discussion items and presentation of those items that will be either discussed or voted on on Thursday.

There will be another public comment period after, Wednesday afternoon, so there's another chance to have a public comment period based on our dialogue and discussion here, prior to any votes that might take place on Thursday.

So, I thank everybody.

(Whereupon, the meeting was adjourned at 5:17 p.m., to reconvene on Wednesday, October 18, 2006 at 8:00 a.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433